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Meeting of States Parties

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Annual report of the International Tribunal for the Law of the Sea for 2000

Presented by the Registrar

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I. Introduction

1. The present report of the International Tribunal for the Law of the Sea is submitted to the Meeting of States Parties under rule 6, paragraph 3 (d), of the Rules of Procedure for Meetings of States Parties. The report covers the period from 1 January to 31 December 2000.

2. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea (hereinafter "the Convention"). It functions in accordance with the relevant provisions of Part XV and Part XI of the Convention, the Statute (hereinafter "the Statute"), as contained in Annex VI to the Convention, and the Rules of the Tribunal (hereinafter "the Rules").

3. The Tribunal is composed of 21 members, elected by the States Parties to the Convention in the manner provided for by article 4 of the Statute.

4. On 10 October 2000, Judge Lihai Zhao (China) passed away. He had been elected for a term of six years commencing 1 October 1996. The President of the Tribunal has proposed that the election to fill the vacancy be held during the Eleventh Meeting of States Parties. Allowing for this change, the composition of the Tribunal is as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President		
P. Chandrasekhara Rao	India	30 September 2008
Vice-President		
L. Dolliver M. Nelson	Grenada	30 September 2005
Judges		
Hugo Caminos	Argentina	30 September 2002
Vicente Marotta Rangel	Brazil	30 September 2008
Alexander Yankov	Bulgaria	30 September 2002
Soji Yamamoto	Japan	30 September 2005
Anatoly Lazarevich Kolodkin	Russian Federation	30 September 2008
Choon-Ho Park	Republic of Korea	30 September 2005
Paul Bamela Engo	Cameroon	30 September 2008
Thomas A. Mensah	Ghana	30 September 2005
Joseph Akl	Lebanon	30 September 2008
David Anderson	United Kingdom	30 September 2005
Budislav Vukas	Croatia	30 September 2005
Rüdiger Wolfrum	Germany	30 September 2008
Edward Arthur Laing	Belize	30 September 2002
Tullio Treves	Italy	30 September 2002
Mohamed Mouldi Marsit	Tunisia	30 September 2005
Gudmundur Eiriksson	Iceland	30 September 2002
Tafsir Malick Ndiaye	Senegal	30 September 2002
José Luis Jesus	Cape Verde	30 September 2008

5. The Registrar is Mr. Gritakumar E. Chitty (Sri Lanka) and the Deputy Registrar is Mr. Philippe Gautier (Belgium).

II. Changes in the composition of the Tribunal

6. Acting pursuant to article 6, paragraph 1, of the Statute, the Registrar, in a note verbale dated 8 November 2000, informed States Parties to the Convention of the vacancy which had occurred in the Tribunal because of the death of Judge Lihai Zhao and invited Governments of States Parties to submit by 9 January 2001 the names of candidates they might wish to nominate for election as Member of the Tribunal. By the said note verbale, the Registrar informed States Parties that the member elected to replace Judge Lihai Zhao would serve until 30 September 2002.

7. By a note verbale dated 12 December 2000, the Registrar informed States Parties to the Convention that the President of the Tribunal, after consultation with the President of the Meeting of States Parties, Mr. Peter Donigi, considered it advisable to have the election held during the Eleventh Meeting of States Parties, which would take place from 14 to 18 May 2001, and requested States Parties to send their comments in that regard no later than 8 January 2001.

III. Chambers

A. Seabed Disputes Chamber

8. In accordance with article 35, paragraph 1, of the Statute, the Seabed Disputes Chamber consists of 11 judges selected by the members of the Tribunal from among themselves. The members of the Chamber are selected triennially. During 2000, a vacancy occurred in the Seabed Disputes Chamber because of the death of Judge Lihai Zhao, who had been a member of the Chamber. Article 35, paragraph 6, of the Statute provides that if a vacancy occurs in the Chamber, the Tribunal selects a successor from among its elected members, who will hold office for the remainder of his predecessor's term. Allowing for this change, the composition of the Chamber, in order of precedence, is as follows: Judge Treves, President; Judges Marotta Rangel, Yamamoto, Kolodkin, Park, Bamela Engo, Vukas, Wolfrum, Laing and Marsit, members.

9. The terms of office of the members of the Chamber expire on 30 September 2002.

10. During the period under review, the Seabed Disputes Chamber commenced examination of the Rules applicable to the Seabed Disputes Chamber with a view to ensuring that the Chamber would be fully prepared to deal with a case or request for an advisory opinion.

B. Special chambers

1. Chamber of Summary Procedure

11. The Chamber of Summary Procedure was established in accordance with article 15, paragraph 3, of the Statute and consists of five members and two alternates. In accordance with article 28 of the Rules, the President and the Vice-President of the Tribunal are ex officio members of the Chamber, with the President of the Tribunal serving as President of the Chamber. The Chamber is constituted annually.

12. During the tenth session, on 27 September 2000, the Chamber was constituted for the period ending on 30 September 2001. The members of the Chamber, in order of precedence, are as follows: President Chandrasekhara Rao; Vice-President Nelson; Judges Kolodkin, Bamela Engo and Anderson, members; Judges Yankov and Marsit, alternates.

2. Chamber for Fisheries Disputes

13. The Chamber for Fisheries Disputes was established in accordance with article 15, paragraph 1, of the Statute and consists of seven members. As decided by the Tribunal, the members of the Chamber are selected for a three-year term.

14. The composition of the Chamber for Fisheries Disputes, in order of precedence, is as follows: Judge Eiriksson, President; Judges Caminos, Yamamoto, Kolodkin, Park, Ndiaye and Jesus, members.

15. The terms of office of the members of the Chamber expire on 30 September 2002.

3. Chamber for Marine Environment Disputes

16. The Chamber for Marine Environment Disputes was established in accordance with article 15, paragraph 1, of the Statute and consists of seven members. As decided by the Tribunal, the members of the Chamber are selected for a three-year term.

17. The composition of the Chamber for Marine Environment Disputes, in order of precedence, is as follows: Judge Yankov, President; Judges Marotta Rangel, Bamela Engo, Mensah, Akl, Anderson and Vukas, members.

18. The terms of office of the members of the Chamber expire on 30 September 2002.

4. Chamber under article 15, paragraph 2, of the Statute

19. Pursuant to article 15, paragraph 2, of the Statute, the Tribunal shall form a chamber for dealing with a particular dispute, if the parties so request. The composition of such a chamber is determined by the Tribunal with the approval of the parties in the manner provided for in article 30 of the Rules.

20. By exchange of letters dated 18 and 19 December 2000, Chile and the European Community informed the Tribunal that further to a recent exchange of views, including through the good offices of the President, they had agreed that the dispute between Chile and the European Community concerning the conservation and sustainable exploitation of swordfish stocks in the South-eastern Pacific Ocean should not be proceeded with in accordance with the arbitral procedure instituted by Chile under article 287, paragraph 3, of the Convention and that the said dispute should be

submitted to a special chamber of the Tribunal to be formed in accordance with article 15, paragraph 2, of the Statute. Chile and the European Community requested the Tribunal to determine, with their approval, the composition of a special chamber to hear the dispute. By separate letters dated 19 December 2000, Chile, in exercise of its right under article 17 of the Statute, notified its choice of Mr. Orrego Vicuña as judge ad hoc and the European Community confirmed this choice.

21. By Order dated 20 December 2000, the Tribunal decided to accede to the request of Chile and the European Community to form a special chamber of five judges to deal with the case. This was the first time that a case had been submitted to a special chamber of the Tribunal.

22. The composition of the Special Chamber to deal with the case is as follows: President Chandrasekhara Rao; Judges Caminos, Yankov and Wolfrum and Judge ad hoc Orrego Vicuña, members.

IV. Meetings of the Tribunal

23. During the period under review, the Tribunal met from 26 January to 6 February 2000 to deal with the "*Camouco*" *Case*; from 6 to 20 December 2000 to deal with the "*Monte Confurco*" *Case;* and from 19 to 20 December 2000 to deal with the request made by Chile and the European Community to constitute a special chamber in the *Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-eastern Pacific Ocean*. The Tribunal held two sessions devoted essentially to administrative matters not directly related to cases. The ninth session was held from 6 to 17 March 2000, and the tenth session from 18 to 29 September 2000.

V. Judicial work of the Tribunal in 2000

A. The *"Camouco" Case (Panama v. France)*

24. On 17 January 2000, an Application under article 292 of the Convention was filed on behalf of Panama against France for the prompt release of the *Camouco*, a fishing vessel flying the Panamanian flag, and its Master. The Application was entered in the List of cases as Case No. 5 and named the "*Camouco*" *Case*.

25. France filed its Statement in Response on 25 January 2000.

26. By Order dated 17 January 2000, the President fixed 27 and 28 January 2000 as the dates for the hearing.

27. Prior to the opening of the hearing, the Tribunal held initial deliberations on 26 January 2000.

28. Four public sittings to hear the oral arguments of the parties and to present evidence were held on 27 and 28 January 2000. Final submissions were made by each party at the end of the hearing.

29. On 7 February 2000, the Tribunal delivered its judgment in the case.

B. The "*Monte Confurco*" *Case (Seychelles v. France)*

30. On 27 November 2000, an Application under article 292 of the Convention was filed on behalf of Seychelles against France concerning the release of the fishing vessel *Monte Confurco*, flying the flag of Seychelles, and its Master. The Application was entered in the List of cases as Case No. 6 and named the "*Monte Confurco*" *Case*.

31. France filed its Statement in Response on 6 December 2000.

32. By Order dated 27 November 2000, the President fixed 7 and 8 December 2000 as the dates for the hearing.

33. Prior to the opening of the hearing, the Tribunal held initial deliberations on 6 December 2000.

34. The hearing was held at the permanent premises of the Tribunal. Four public sittings to hear the oral arguments of the parties and to present evidence were held on 7 and 8 December 2000. Final submissions were made by each party at the end of the hearing.

35. On 18 December 2000, the Tribunal delivered its judgment in the case.

C. *Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-eastern Pacific Ocean (Chile v. European Community)*

36. By an exchange of letters dated 18 and 19 December 2000, Chile and the European Community agreed to submit a dispute concerning the conservation and sustainable exploitation of swordfish stocks in the South-eastern Pacific Ocean to a special chamber of the Tribunal to be formed in accordance with article 15, paragraph 2, of the Statute. By communications dated 19 December 2000, the exchange of letters was notified to the Registrar by Chile and the European Community pursuant to article 24 of the Statute.

37. The case was entered in the List of cases as Case No. 7 and named the *Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-eastern Pacific Ocean*. By Order dated 20 December 2000, the Tribunal decided to accede to the request of the parties to form a special chamber to deal with the case and determined the composition of the Special Chamber with their approval.[1] By the same Order, the Tribunal made provision in respect of preliminary objections and for the filing of the written pleadings.

VI. Committees and working groups

A. Committees

38. During the tenth session, on 27 September 2000, the Tribunal decided to extend the term of office of the members of the committees until 30 September 2001.[2]

B. Working Group

39. During the ninth session, on 15 March 2000, the Tribunal constituted a working group to deal with the question of bonds or other financial security in prompt release proceedings. The members of the Working Group are as follows: Judge Laing, Chairman; Judges Akl, Vukas, Eiriksson and Ndiaye, members. During the tenth session, on 27 September 2000, the Tribunal decided to extend the term of office of the members of the Working Group until 30 September 2001.

VII. Rules of the Tribunal and supplementary documents

A. Costs to be borne by parties

40. During the ninth session of the Tribunal, Judge Anderson presented a report on the question of costs to be borne by parties. The matter was considered by the Committee on Rules and Judicial Practice during the tenth session. The Committee took note of the willingness of Judge Anderson to develop proposals on the basis of his report for consideration by the Committee at the next session.

B. Preparation of typed and printed texts

41. During the tenth session of the Tribunal, the Committee on Rules and Judicial Practice considered rules for the preparation of typed and printed texts on the basis of a document prepared by the Registrar. Consideration of this document will continue at the next session of the Tribunal.

C. Bonds and other financial security

42. During the ninth session of the Tribunal, Judge Laing presented a report on bonds or other financial security. The Working Group on Bonds and Other Financial Security considered the matter and reported to the Tribunal at its tenth session. The Tribunal requested the Working Group to continue consideration of the matter at the next session.

D. Communications from parties in the matter of implementation of judgments and orders

43. During the tenth session of the Tribunal, the Committee on Rules and Judicial Practice gave consideration to a report prepared by the President on the publication of communications from parties in the matter of implementation of judgments and orders. The Committee recommended that communications received from parties concerning implementation of judgments and orders should be reported in the Tribunal's publications including Yearbooks, Annual Reports and Pleadings, Minutes of Public Sittings and

Documents. This recommendation was adopted by the Tribunal.

E. Prompt release cases: time factors

44. During the ninth session, the Tribunal requested the Committee on Rules and Judicial Practice to consider issues arising out of a paper submitted by Judge Anderson concerning time factors in the handling of cases involving applications for prompt release of vessels and crews under article 292 of the Convention.

VIII. Privileges and immunities

A. General Agreement

45. The Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, adopted by the Seventh Meeting of States Parties on 23 May 1997, was deposited with the Secretary-General of the United Nations and opened for signature at United Nations Headquarters for 24 months as from 1 July 1997.[3] The Agreement is subject to ratification or accession and will enter into force 30 days after the date of deposit of the tenth instrument of ratification or accession. As at 30 June 1999, the closing date for signature, 21 States had signed the Agreement. As at 31 December 2000, four States had ratified it.

B. Headquarters Agreement

46. During the period under review, negotiations continued with the German authorities on the Headquarters Agreement between the Tribunal and the Federal Republic of Germany. Meetings were held in Berlin on 24 February, 8 May and 20 June 2000, and in Hamburg on 6 April 2000.

47. During the ninth session, based on a report presented by the Registrar, the Tribunal authorized the President and the Registrar to undertake negotiations with Germany on outstanding issues concerning the Agreement.

48. The President, at the tenth session of the Tribunal, reported on the outcome of the negotiations. The President was requested to pursue his efforts in this regard.

IX. Relations with the United Nations and other organizations

A. Observer status in the General Assembly

49. As an observer to the General Assembly, the Tribunal participated in meetings of the General Assembly on matters of relevance to the Tribunal.

50. At the 44th plenary meeting of the fifty-fifth session of the General Assembly, on 30 October 2000, President Chandrasekhara Rao delivered a statement under agenda item 34, entitled "Oceans and the law of the sea".

B. Relationship Agreement with the United Nations

51. The Registrar reported to the Tribunal, at its ninth session on developments regarding the implementation of the Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea, including circulation of United Nations publications to judges and access of judges to United Nations Headquarters and to meetings and conferences held there.

C. Relationship with other organizations and bodies

52. The Registrar reported to the Tribunal, at its ninth session on contacts made as regards possible relationship arrangements with the Food and Agriculture Organization of the United Nations (FAO), the Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Seabed Authority.

53. The Registrar reported to the Tribunal at its tenth session on consultations regarding working contacts with FAO, IOC/UNESCO, the International Seabed

Authority and the International Maritime Organization (IMO).

X. Premises of the Tribunal

A. Official opening of the permanent premises

54. The joint ceremony of the Tribunal, the Government of the Federal Republic of Germany and the Senate of the Free and Hanseatic City of Hamburg for the official opening of the permanent premises of the Tribunal took place on 3 July 2000. At the ceremony, statements were delivered by the Secretary-General of the United Nations, Mr. Kofi Annan; President Chandrasekhara Rao; the Federal Minister of Justice of the Federal Republic of Germany, Mrs. Herta Däubler-Gmelin; the First Mayor of Hamburg, Mr. Ortwin Runde; and Registrar Chitty. The ceremony was attended by the Vice-President and other judges of the Tribunal and high dignitaries, including the President of the Meeting of States Parties, Mr. Peter Donigi; the Legal Counsel of the United Nations, Mr. Hans Corell; Ministers and other Government representatives and representatives of international organizations.

55. In his statement, Secretary-General Annan observed that the Tribunal was the "keystone of the United Nations Convention on the Law of the Sea", that it was "the central forum available — to States, to certain international organizations, and even to some corporations — for resolving disputes about how the Convention should be interpreted and applied" and that it had "already built a reputation among international lawyers as a modern court that can respond quickly".

B. Premises Agreement

56. During the period under review, negotiations were successfully concluded between the Tribunal, the Government of the Federal Republic of Germany and the Hamburg Senate to establish an agreement concerning the permanent premises of the Tribunal. On 18 October 2000, President Chandrasekhara Rao, the Federal Minister of Justice of the Federal Republic of Germany, Mrs. Herta Däubler-Gmelin, and the State Secretary for Foreign Affairs, Mr. Wolfgang Ischinger, signed the Agreement between the International Tribunal for the Law of the Sea and the Government of the Federal Republic of Germany on the Occupancy and Use of the Premises of the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg (hereinafter "Additional Agreement"). An Agreement concerning the implementation of the Additional Agreement was concluded in the form of an exchange of letters; it was signed by the Director-General of the Ministry of Foreign Affairs, Mr. Gerd Westdickenberg, and Registrar Chitty.

57. On the occasion of the signing of the Additional Agreement, the President expressed his gratitude to the Federal Republic of Germany and the Free and Hanseatic City of Hamburg for providing the Tribunal with a modern court building designed to facilitate the administration of justice in an efficient and expeditious manner.

58. The Additional Agreement establishes the terms and conditions under which the premises are made available by the Federal Republic of Germany to the Tribunal. It regulates matters such as the transfer, use, operation, maintenance, repairs, alterations, access to and vacation of the premises. It also provides for public services for the premises, a consultative mechanism for resolving issues and procedures for settling disputes.

C. Move to the permanent premises

59. Pursuant to the Additional Agreement, the transfer of the permanent premises to the Tribunal took place on 6 November 2000. A facility manager was appointed to carry out several of the services relating to the operation and maintenance of the premises. The move from the temporary premises located at Wexstrasse 4 to the permanent premises took place from 20 to 24 November 2000. The Tribunal started working from its permanent premises on 27 November 2000.

60. The new address of the Tribunal is:

Am Internationalen Seegerichtshof 1
22609 Hamburg
Federal Republic of Germany
Telephone: (49 40) 35 60 7-0
Fax: (49 40) 35 60 7-245
Email: itlos@itlos.org

XI. Communications from parties

61. During the period under review, the Tribunal received communications from parties with respect to the following cases:

(a) In the *M/V "Saiga" (No. 2) Case*, Saint Vincent and the Grenadines transmitted to the Tribunal copies of two separate communications dated 17 July 2000 and 21 September 2000 on the issue of compliance with the judgment of the Tribunal of 1 July 1999;

(b) In the *Southern Bluefin Tuna Cases*, by a communication dated 9 March 2000, New Zealand informed the Tribunal of an unintentional overcatch of southern bluefin tuna by New Zealand during the 1998/99 fishing year and of the steps taken to reduce its catch for the 1999/2000 season. By a communication dated 10 March 2000, Australia transmitted to the Tribunal its comments on the issue;

(c) In the "*Camouco*" *Case*, Panama transmitted several communications to the Tribunal on developments concerning the vessel and the Master, including communications dated 10, 23 and 24 March 2000, informing the Registry that a bank guarantee had been constituted and that the vessel and the Master had been released;

(d) In the "*Monte Confurco*" *Case*, by a communication dated 28 December 2000, Seychelles informed the Tribunal of developments concerning judicial proceedings with respect to the vessel and the Master before French courts.

XII. Request for appointment of arbitrator

62. On 23 August 2000, the President was requested by Chile to appoint an arbitrator pursuant to article 3 of Annex VII to the Convention. The arbitrator was to sit on the arbitral tribunal to be constituted to consider the dispute between Chile and the European Community concerning swordfish stocks in the South-eastern Pacific Ocean. The President held consultations with the parties with regard to the appointment of an arbitrator. However, following the agreement by the Government of Chile and the European Community to submit the case to a special chamber of the Tribunal, the President took no further action on the request made by Chile.

XIII. Finances

A. Budget

1. Budget for 2001

63. The budget proposals for 2001, approved by the Tribunal at its ninth session, were submitted to the Tenth Meeting of States Parties. The proposals, involving an amount of $8,698,900, were based on the need to strengthen the legal, linguistic and administrative capability of the Registry and to defray the costs of the expected schedule of judicial work. They were also founded on the necessity to meet the maintenance, operational and security requirements of the new premises and to install a fully integrated computer network system therein.

64. The Meeting of States Parties approved a budget for 2001 totalling US$ 8,090,900. The budget provided for recurrent expenditure of $6,902,000, including $1,760,000 for the remuneration of the judges and $3,365,200 for salaries and related costs of staff, and non-recurrent expenditure of $275,000. The Meeting of States Parties also approved $863,900 as contingency to be used in the event of cases being submitted to the Tribunal. The Meeting of States Parties further approved an additional amount of $50,000 for advances to the Working Capital Fund of the Tribunal and decided that, on an exceptional basis, savings from appropriations in the budget for 2001, up to a maximum of $200,000, would also be credited to the Fund.[4]

2. Budget proposals for 2002

65. At the tenth session, the Committee on Budget and Finance gave preliminary consideration to the budget for 2002. The Tribunal decided that the Committee would convene from 27 February to 2 March 2001 to prepare the draft budget for 2002.

3. Report on budget performance

66. At the ninth session, the Tribunal considered reports presented by the Registrar concerning the performance of the budget as at 22 February 2000.

B. Status of contributions

67. As at 31 December 2000, 58 States Parties had made their contributions to the 2000 budget in the full amount assessed or more totalling $7,033,073; 16 States Parties had made partial contributions totalling $154,094; and 61 States Parties had not made any payments with respect to their assessed contributions. The balance of unpaid contributions with respect to the 2000 budget is $663,724.

68. Furthermore, assessed contributions amounting to $730,203 in respect of the 1996-1997, 1998 and 1999 budgets were still pending as of 31 December 2000.

69. The balance of unpaid contributions with respect to the overall budget of the Tribunal amounts to $1,393,927.

C. Report of the Auditor for 1999

70. In accordance with the practice of the United Nations system, arrangements were made for the accounts of the Tribunal for 1999 to be audited by an internationally recognized auditing firm.

71. Together with the audit report for the 1998 financial year, the Tribunal submitted the audit report for the financial year 1999 to the Tenth Meeting of States Parties. In the light of the information provided by the Registrar that the Tribunal had not had an opportunity to review it, the Meeting decided to defer consideration of the audit report for 1999 until the Eleventh Meeting of States Parties.

72. Subsequently, the audit report for the 1999 financial year was presented by the Registrar at the tenth session of the Tribunal. The auditor, having reviewed the transactions and operations over that period, was satisfied that the financial statements presented fairly, in all material respects, the financial position of the Tribunal, and that the excess of income over expenditure for the period then ended was in conformity with generally accepted accounting principles and with the Financial Regulations of the United Nations, which applied mutatis mutandis. The Tribunal took note of the audit report for 1999 and requested that the report be submitted to the Eleventh Meeting of States Parties.[5] The Tribunal also authorized the reappointment of the existing auditor for the 2000 financial period and decided that the question of appointment would be reconsidered in 2001.

D. Financial Regulations

73. Pending approval of the Financial Regulations of the Tribunal by the Meeting of States Parties, the Financial Regulations and Rules of the United Nations apply mutatis mutandis.

E. Trust funds and donations

74. At the tenth session, the President informed the Tribunal of the decision taken by the Tenth Meeting of States Parties to recommend to the General Assembly the establishment of a trust fund for assisting States in proceedings before the Tribunal.[6] Subsequently, on 30 October 2000, the General Assembly, in its resolution 55/7 entitled "Oceans and the law of the sea", requested the Secretary-General to establish and administer a voluntary trust fund to assist States in the settlement of disputes through the Tribunal.

XIV. Administrative matters

A. Staff Regulations and Rules

75. Based on the recommendation of its Committee on Staff and Administration, during its ninth session, the Tribunal approved amendments to the Staff Regulations of the Tribunal dealing with rates of staff assessment and the salary scales for staff in the Professional and higher categories.

76. During the ninth session of the Tribunal, the Registrar reported to the Tribunal on the establishment of the Staff Committee. During the tenth session, the Registrar reported on the establishment of the Conciliation Committee and the Appointments and Promotions Committee. At that session, the Tribunal requested the President and the Registrar to take steps to conclude with the Secretariat of the United Nations the agreement to extend the jurisdiction of the United Nations Administrative Tribunal to the staff of the Registry.

77. The Registrar submitted to the Tribunal, at its tenth session draft Staff Rules of the Tribunal. The draft Staff Rules were considered by the Committee on Staff and Administration, which proposed amendments thereto. On 29 September 2000, the Tribunal approved the draft Staff Rules with the amendments proposed by the Committee on Staff and Administration. In

accordance with rule 112.8 of the Staff Rules, the Staff Rules took effect from 1 October 2000; in accordance with staff regulation 12.4, the Staff Rules shall enter into full force and effect on 1 January 2001.

B. Staff movement

78. The Tribunal continued the recruitment process for both Professional and General Service staff. At the end of 2000, the status of the recruitment process was as follows:

(a) Recruitment completed: Systems Administrator/Database Manager (P-3), Associate Administrative Officer (Contributions and Benefits) (P-2) and Associate Administrative Officer (Support/Building Management) (P-2);

(b) Offer of appointment issued: Legal Officer (P-4);

(c) Recruitment completed for one General Service post.

79. Temporary personnel were recruited to assist the Tribunal in connection with the "*Camouco*" *Case* and the "*Monte Confurco*" *Case* and during its ninth and tenth sessions.

C. Instructions for the Registry

80. During its ninth session, on 17 March 2000, the Tribunal adopted Instructions for the Registry based on a recommendation made by the Committee on Staff and Administration.

D. Internship programme

81. Modelled on the United Nations internship programme, an internship programme of the Tribunal was established in 1997. During the period under review, 16 persons served different periods of internship at the Tribunal.

82. During the reporting period, the Tribunal approved changes to the internship programme based on the recommendation of the Committee on Staff and Administration.

XV. Buildings and electronic systems

A. Building requirements for the permanent premises

83. During the ninth and tenth sessions, the Registrar presented reports to the Committee on Buildings and Electronic Systems. Based on the reports, the Committee made recommendations to the Tribunal with respect to building requirements for the permanent premises, in particular with respect to the Library, interpretation booths and electronic equipment. The Tribunal adopted the recommendations of the Committee and requested the Registrar to take appropriate action.

84. After the move into the permanent premises, several problems concerning the premises were identified. Pursuant to the Additional Agreement, these problems will be notified to the competent authorities.

B. Public access

85. During the period under review, the Tribunal gave consideration to the issue of access to the new premises by the general public. Based on recommendations of the Committee on Buildings and Electronic Systems and suggestions by the Registrar, at its tenth session, the Tribunal established conditions concerning guided tours for the general public and for groups of visitors with a relevant interest in the Tribunal's functions and concerning open days.

C. Use of the premises

86. With the approval of the Tribunal given at its seventh session, the final and semi-final rounds of the Charles Rousseau International Law Moot Court Competition for 2000 were held at the temporary premises of the Tribunal on 5 and 6 May 2000.

87. At its eighth session, the Tribunal agreed to accept the offer by the Max Planck Institute for Comparative Public Law and International Law to hold an international symposium at the permanent premises of the Tribunal on the occasion of the move of the Tribunal into its new premises. The symposium on "The International Dispute Settlement System" was held on 23 September 2000.

88. At the ninth session, the Tribunal agreed to a request by the International Ocean Institute to hold its annual conference entitled "*Pacem in Maribus 2000*, The European Challenge" at the permanent premises. The conference was held from 3 to 6 December 2000.

89. At the ninth session, the Tribunal acceded to a request by the Center for Oceans Law and Policy of the University of Virginia School of Law (United States of America) to hold its annual conference at the permanent premises from 16 to 19 March 2001.

XVI. Balance between official languages of the Tribunal

90. During the ninth session, the Tribunal adopted guidelines for ensuring a better balance between the two official languages of the Tribunal and decided that the guidelines should be implemented in a flexible manner. The Registrar reported to the Tribunal, at its tenth session, on steps taken pursuant to the guidelines.

XVII. Library facilities

91. During the ninth and tenth sessions, the Registrar reported on several matters pertaining to the Library, including the use of the donation from the Korea Foundation, the online database, the acquisitions and the price increases for serial titles. The Committee on Library and Publications considered the report of the Registrar and made recommendations in respect of the database, public access to the new Library and the need for future planning of the Library's budget. The Tribunal adopted the recommendations.

92. A list of donors to the Library is contained in the annex to the present report.

XVIII. Publications

93. During the tenth session, the Registrar reported to the Tribunal that copies of judgments and orders of the Tribunal had been sent to the Ministers for Foreign Affairs of the States Parties to the Convention. The status of the Tribunal's publications was reviewed by the Committee on Library and Publications during the session.

94. During the period under review, the *Yearbook 1998* and the *Report of Judgments, Orders and Advisory Opinions 1997* were published.

XIX. Public information

95. The Tribunal publicized its work by means of press releases and briefings by the Registry and by distribution of its judgments, orders and publications such as the *Yearbook*. Information about the Tribunal is also presented on the United Nations web site (http://www.un.org/Depts/los). (Judges also delivered addresses and published papers on the work of the Tribunal.)

96. Texts of the judgments, orders and verbatim records of hearings of the Tribunal are available on the United Nations web site: http://www.un.org/Depts/los.

97. The Tribunal has taken steps to develop a web site of its own.

XX. Foundation for the international law of the sea

98. The Tribunal was approached by representatives of a number of leading institutions in Hamburg desirous of establishing a foundation the objective of which would be to promote the study of the international law of the sea. At its tenth session, the Tribunal welcomed the proposed establishment of such a foundation. It decided that the President of the Tribunal could serve as an ex officio chairman of the *Kuratorium* (supervisory body) and that Judges could also serve on the advisory council of the proposed foundation.

XXI. Future work

99. The Tribunal decided to hold its eleventh session from 5 to 16 March 2001 to deal with organizational and administrative matters.

Notes

[1] For the composition of the Special Chamber, see para. 22. For the issues to be decided, see para. 3 of the Order.

[2] For the terms of reference of the Committees, see SPLOS/27, paras. 37-40, and SPLOS/50, para. 37. For the composition of the committees, see SPLOS/50, paras. 31-34 and 36.

[3] SPLOS/24, para. 27.

[4] SPLOS/60, para. 30.

[5] SPLOS/48, para. 28, SPLOS/45 and SPLOS/60, para. 38.

[6] SPLOS/57.

Annex

List of donors to the Library of the International Tribunal for the Law of the Sea during 2000*

American Society of International Law, Washington, D.C.

Professor Takashi Aoki, Seiwa University, Faculty of Law, Chiba, Japan

Asociación Argentina de Derecho Internacional, Córdoba, Argentina

Vincent P. Bantz, Graduate Institute of International Studies, Geneva

Bundesamt für Seeschiffahrt und Hydrographie, Hamburg

Center for Oceans Law and Policy, University of Virginia School of Law, Charlottesville, Virginia, United States of America

Centre d'Etudes et de Recherche de Droit International, Université de Paris I

Comité Maritime International, Antwerp, Belgium

Economic Court of Commonwealth of Independent States, Minsk

Food and Agriculture Organization of the United Nations, Development Law Service, Legal Office, Rome

Fundación Pedro Barrié de la Maza, La Coruña, Spain

Professor Dr. Hartmut Goethe, Deutsche Gesellschaft für Schiffahrts-und Marinegeschichte, Düsseldorf, Germany

Germanischer Lloyd, Hamburg

Institute of International Public Law and International Relations, Thessaloniki, Greece

Inter-Parliamentary Union, New York

International Court of Justice, The Hague

International Criminal Tribunal for Rwanda, Arusha, United Republic of Tanzania

International Maritime Organization, London

International Tribunal for the Former Yugoslavia, The Hague

IUCN — The World Conservation Union, Bonn, Germany

International Whaling Commission, Cambridge, United Kingdom

Professor Barbara Kwiatkowska, The Netherlands Institute for the Law of the Sea, Utrecht

Professor Dr. Rainer Lagoni, Institut für Seerecht und Seehandelsrecht der Universität Hamburg

Mare, Die Zeitschrift der Meere, Hamburg

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* This list of donors does not take into account donations from members of the Tribunal and staff of the Registry.

Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, Heidelberg, Germany

Dr. Erik Jaap Molenaar, The Netherlands Institute for the Law of the Sea, Utrecht

Ibrahim Najjar, Cabinet d'avocats, Beirut

Naval War College, Newport, Rhode Island, United States of America

Oceana Publications, Dobbs Ferry, N.Y., United States of America

Permanent Court of Arbitration, The Hague

Professor Adela Rey Aneiros, Facultad de Derecho, Universidad de La Coruña, La Coruña, Spain

RAMOGE Agreement, Secretariat, Monaco

Alexander Roth, Stalfort & Partner, Berlin

Werner Simon, United Nations Library, Geneva

Dr. Chua Thia-Eng, Director of the Regional Programme for the Prevention and Management of Marine Pollution in the East Asian Seas, Quezon City, Philippines

Professor Daniel Vignes, Paris

Walther-Schücking-Institut für Internationales Recht an der Universität Kiel, Kiel, Germany

Professor Philippe Weckel, Cagnes-sur-Mer, France

United Nations Convention on the Law of the Sea SPLOS/64

Meeting of States Parties

Distr.: General
1 May 2001

Original: English

Eleventh Meeting
New York, 14-18 May 2001

Issues with respect to article 4 of Annex II to the United Nations Convention on the Law of the Sea

Background paper prepared by the Secretariat

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I. Introduction

1. The tenth Meeting of States Parties to the United Nations Convention on the Law of the Sea, convened at United Nations Headquarters from 22 to 26 May 2000, discussed the issue of the 10-year time limit under article 4 of Annex II to the United Nations Convention on the Law of the Sea[1] for coastal States to submit the scientific and technical data delineating the outer limit of their continental shelf beyond 200 nautical miles to the Commission on the Limits of the Continental Shelf.

2. It was pointed out during the discussion that, in view of the lack of necessary funds and technical expertise in certain developing countries, particularly the least developed ones, the Meeting of States Parties should consider means by which assistance could be provided with respect to the scientific and technical expertise required by those States preparing submissions, to enable them to comply with the 10-year time limit required by the Convention, or it should consider an extension of the time limit. The Meeting expressed general support for the concerns voiced by developing States regarding the difficulty of complying with the 10-year time limit and decided to include in the agenda for the eleventh Meeting an item entitled "Issues with respect to article 4 of Annex II to the United Nations Convention on the Law of the Sea". It requested the Secretariat to prepare a background paper on the matter.

3. In response to that request, the Secretariat has prepared the present document, which addresses the issue of the time limit as well as the question of assistance with respect to the scientific and technical aspects of the preparation of submissions.

II. States for which the 10-year time limit expires in the years 2004-2008

4. The United Nations Convention on the Law of the Sea entered into force on 16 November 1994. At the time of its entry into force, 67 States had become Parties to the Convention (see A/56/58, annex I).

5. Of the 67 States for which the Convention entered into force on that date, 14 could possibly meet the legal and geographic requirements to take advantage of the provisions of article 76 regarding an extended continental shelf, based on the assessment made during the Third United Nations Conference on the Law of the Sea.[2]

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[1] Article 4 of Annex II reads as follows:

"Where a coastal State intends to establish, in accordance with article 76, the outer limits of its continental shelf beyond 200 nautical miles, it shall submit particulars of such limits to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of the Convention for that State. ..."

[2] From the map illustrating the various formulae for the definition of the continental shelf that was prepared at the request of the Third United Nations Conference on the Law of the Sea in 1978 with the assistance of experts from the Lamont-Doherty Geological Observatory of Columbia University, the International Hydrographic Organization (IHO) and the Intergovernmental Oceanographic Commission (IOC) (*Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IX (United Nations publication, Sales No. E.79.V.3), Documents of the Conference, document A/CONF.62/C.2/L.98/Add.1), the

6. Within the group of wide-margin States, identified on the basis of information provided to UNCLOS III, there are three signatories to the Convention — Canada, Denmark and Madagascar — that have not yet ratified it, and two States — Ecuador and the United States of America, that have neither signed nor acceded to it. There is therefore none of these countries currently has a date upon which the 10-year time limit would expire.

7. During the five-year period from 2004 to 2008, of the current States Parties to the Convention that could tentatively be identified as possibly having a continental shelf extending beyond 200 nautical miles, the 10-year time limit will expire for the following States:

Expiration of 10-year time limit

	2004	*2005*	*2006*	*2007*	*2008*
Developing States	Angola Brazil Fiji Guinea Guyana Indonesia Mauritius Mexico Micronesia Namibia Seychelles Uruguay	Argentina India	Myanmar		South Africa Suriname
Developed States	Australia Iceland		France Ireland Japan New Zealand Norway	Portugal Russian Federation Spain United Kingdom	

8. The figure of about 30 countries may be a conservative estimate. According to some members of the Commission on the Limits of the Continental Shelf, the number of States that may have the geographic and geological prerequisites to establish an extended continental shelf along at least some portion of their coastline could exceed the estimates based on the map produced in 1978. However, the exact number of such States can only be known after the States make their submissions to the Commission. It is only after consideration of the submissions that the Commission will issue recommendations regarding the outer limits of their continental shelf on the basis of which the coastal States will establish the continental shelf limits which "shall be final and binding" (article 76 (8) of the Convention).

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following 33 States, both parties and non-parties to the Convention, could be identified as possibly having a continental shelf extending beyond 200 nautical miles: Angola, Argentina, Australia, Brazil, Canada, Denmark, Ecuador, Fiji, France, Guinea, Guyana, Iceland, India, Indonesia, Ireland, Japan, Madagascar, Mauritius, Mexico, Micronesia (Federated States of), Myanmar, Namibia, New Zealand, Norway, Portugal, Russian Federation, Seychelles, South Africa, Spain, Suriname, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

III. Postponement of the initial election of the members of the Commission

9. According to article 2, paragraph 2, of Annex II to the Convention, the initial election of the members of the Commission should have taken place "as soon as possible but in any case within 18 months after the date of entry into force of this Convention", that is, by 16 May 1996.

10. However, the Third Meeting of States Parties to the Convention, held in New York from 27 November to 1 December 1995, decided that the election of members of the Commission would be postponed until March 1997 — by 10 months. The delay of the first election afforded an opportunity for additional States to become parties to the Convention and to nominate candidates for membership of the Commission. In fact, the postponement of the elections allowed 31 additional countries to accede to the Convention, and 8 among them nominated candidates who were elected and are currently serving on the Commission.

11. As a measure to offset any difficulty that might be caused to States by the postponement of the election of the Commission, a proviso was agreed upon by which, "should any State which is already a Party to the Convention by 16 May 1996 be affected adversely in respect of its obligations under article 4 of Annex II to the Convention as a consequence of the change in the date of the election, States Parties, at the request of such a State, would review the situation with a view to ameliorating the difficulty in respect of that obligation" (SPLOS/5, para. 20).

12. The Ministry of Foreign Affairs of the Republic of Seychelles has already addressed a note verbale to the Secretary-General of the United Nations with regard to the extension of time on submissions to the Commission on the Limits of the Continental Shelf. The Government of Seychelles is of the opinion that it was adversely affected by the late election of members of the Commission, and thus requests that consideration be given to an extension of time in which to submit particulars of the outer limits of its continental shelf to the Commission. In this regard the Government referred to the above-mentioned decision of the Third Meeting of States Parties. The Secretariat has forwarded this request to the President of the Meeting of States Parties (SPLOS/66).

13. Postponement of the first election of the members of the Commission was not the first such action undertaken by the Meeting: the first election of the judges of the International Tribunal for the Law of the Sea was postponed by the Meeting for over 14 months. According to the Convention, the first election of the members of the Tribunal was to be held "within six months of the date of entry into force of this Convention,"[3] i.e. before 16 May 1995.

14. However, the first Meeting of States Parties (21-22 November 1994) was an "ad hoc" meeting convened in accordance with article 319, paragraph 2 (e), of the Convention and the recommendation of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea.[4]

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[3] Article 4 (3) of annex VI to the Convention.

[4] See report of the first Meeting (SPLOS/3, para. 1) and LOS/PCN/L.115/Rev.1, para. 43. Representatives of the following States Parties attended the Meeting: Australia, Bahamas,

15. The only purpose of this "ad hoc" meeting was to postpone the elections of the members of the Tribunal; other items on its agenda were deferred.[5] On the recommendation of the Preparatory Commission, contained in the statement by the Chairman,[6] the Meeting decided that:

> "(a) Having regard to the recommendations of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, there would be a deferment of the first election of the members of the Tribunal. The date of this first election of all 21 members would be 1 August 1996. That would be a one-time deferment;"

16. It is worth noting that the recommendation of the Preparatory Commission to defer the first election of the Tribunal was made "[b]earing in mind the desire to achieve universal participation in the Convention".[7] The postponement of the first election of the members of the Commission on the Limits of the Continental Shelf was made for basically the same reason and in the same legal context.

17. Another point discussed at the first Meeting of States Parties was the question of decision-making procedures, which might also be borne in mind during the current consideration of the possible extension of the 10-year time limit for submissions to the Commission. The Meeting decided to amend the draft rules contained in document SPLOS/2, in particular those relating to observers (rule 15), election (rule 22) and general agreement (rule 61).[8] Rule 61 entitled "General Agreement" was adopted as follows:

> "Except as otherwise provided in the Convention and, in particular, without prejudice to the provisions of articles 155 and 312 of the Convention, the following provisions shall apply for decision-making:
>
> (a) The Meeting should conduct its work on the basis of general agreement;

Bahrain, Barbados, Botswana, Brazil, Cape Verde, Costa Rica, Cuba, Cyprus, Egypt, Fiji, Germany, Guyana, Honduras, Iceland, Indonesia, Jamaica, Kenya, Kuwait, Mali, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Namibia, Nigeria, Oman, Paraguay, Philippines, Senegal, Sri Lanka, Saint Lucia, Sudan, Togo, Tunisia, Uganda, United Republic of Tanzania, Uruguay, Viet Nam, Yemen, Yugoslavia and Zimbabwe. Attendance was recorded on the basis of a roll-call at the commencement of the Meeting on 21 November 1994 and the credentials submitted to the Secretariat (ibid., para. 4). The Meeting elected Ambassador Satya N. Nandan (Fiji) as its President by acclamation and decided to defer consideration of the election of the other officials. The Meeting decided that it would provisionally apply the provisional rules of procedure contained in document SPLOS/2, which followed the rules generally applicable to conferences and meetings under the aegis of the United Nations.

[5] The Meeting considered its provisional agenda (SPLOS/1) and decided not to deal with items 5, 6 and 9 at that time. Items 5, 6 and 9 of the provisional agenda were as follows:

5. Election of Vice-Presidents.
6. Appointment of the Credentials Committee.
9. Consideration of the subject matter referred to in the report of the Preparatory Commission under paragraph 10 of resolution I containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea.

[6] LOS/PCN/L.115/Rev.1, para. 43.

[7] Ibid, para. 43.

[8] SPLOS/3, para. 11.

(b) It may proceed to a vote in accordance with rule 64 only after all efforts at achieving general agreement have been exhausted;

(c) Decisions to be taken on the one-time deferment of the election of the members of the Tribunal in accordance with article 4, annex VI, of the Convention, shall be by consensus."

18. What deserves special attention here is the expressed desire of the States Parties to act by "general agreement", that is, to take decisions on important issues by consensus. This rule also states that it is "without prejudice" to the provisions of article 312, which is entitled "Amendment". The same rule contains the provision as to how the decision of the Meeting regarding the deferment of the election of the members of the Tribunal should be taken: "by consensus". These two points expressed in the same rule tell us that the deferment of the election was a substantive issue requiring consensus, but not requiring a formal amendment to the Convention in accordance with its article 312.

IV. Procedures that may be considered in case the 10-year time limit is to be extended

19. The Commission was established by the Convention and is governed by its provisions, including the provision which sets the 10-year time limit for States to make their submissions to the Commission. At this point in time, a change in the provision regarding the 10-year time limit — a provision which is of direct relevance to the specific rights and obligations of the States Parties — may require an amendment to the Convention in accordance with its article 312, entitled "Amendment", or article 313, "Amendment by simplified procedure" — both ways seemingly appropriate in the case of the 10-year time limit.

20. Article 312, paragraph 1, provides that:

"After the expiry of a period of 10 years from the date of entry into force of this Convention, a State Party may, by written communication addressed to the Secretary-General of the United Nations, propose specific amendments to this Convention, other than those relating to activities in the Area, and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within 12 months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference."

21. The date the Convention provides for amendments to it to be proposed — 16 November 2004 — coincides with the date of expiration of the 10-year time limit for the first 13 of the States mentioned above with a probable extended continental shelf. Therefore an amendment to extend the time limit by convening an amendment conference may prove to have been made too late to help those States that will be the first for which the time limit runs out, in 2004.

22. The Convention also provides for an amendment procedure in article 313, entitled "Amendment by simplified procedure". The article reads as follows:

"1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose an amendment to this Convention,

other than an amendment relating to activities in the Area, to be adopted by the simplified procedure set forth in this article without convening a conference. The Secretary-General shall circulate the communication to all States Parties.

"2. If, within a period of 12 months from the date of the circulation of the communication, a State Party objects to the proposed amendment or to the proposal for its adoption by the simplified procedure, the amendment shall be considered rejected. The Secretary-General shall immediately notify all States Parties accordingly.

"3. If, 12 months from the date of the circulation of the communication, no State Party has objected to the proposed amendment or to the proposal for its adoption by the simplified procedure, the proposed amendment shall be considered adopted. The Secretary-General shall notify all States Parties that the proposed amendment has been adopted."

23. The simplified procedure for amending the Convention envisaged in article 313 is different from the course of action stipulated by article 312, inter alia, in one aspect very important to the consideration of the time limit: it can be used at any time, even before the expiration of the 10-year period required for the amendments proposed in accordance with article 312. This provision was included in the Convention because "it is not subject to the 10-year moratorium which applies in cases coming within the scope of article 312".[9] However, the application of this procedure will require consensus: according to paragraph 2 of article 313, if any State Party objects to the proposed amendment within 12 months of its circulation, the amendment shall be considered rejected.

24. Other procedures for implementation of the Convention were undertaken previously: there are two agreements directly related to the Convention, one of which was adopted before its entry into force, and the other after it.

25. The Agreement relating to the implementation of Part XI of the Convention was negotiated and signed before the Convention entered into force. Procedurally, this was effected by the adoption of United Nations General Assembly resolution 48/263 of 28 July 1994, by which the Agreement was opened for signature.[10] It should be borne in mind, however, that this procedure was used before the entry into force of the Convention.

26. Another international instrument closely related to the Convention, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, was concluded by an intergovernmental conference after the Convention had entered into force and shall be interpreted and applied in the context of and in a manner

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[9] *United Nations Convention on the Law of the Sea: A Commentary*, vol. V, Myron H. Nordquist, Editor-in-Chief, Shabtai Rosenne and Louis B. Sohn, Volume Editors) (Martinus Nijhoff Publishers, 1989), para. 313.3, p. 269. See also documents of the Third United Nations Conference on the Law of the Sea FC/21/Rev.1 and FC/21/Rev.1/Add.1: "Note by the President on Final Clauses", reproduced in R. Platzoder (ed.), *Third United Nations Conference on the Law of the Sea*, Documents of the Conference (Oceana Publications, 1982), vol. XII, pp. 410-424.

[10] The process and legal ramifications are set out in the introduction to the Agreement; see United Nations publication, Sales No. E.97.V.10, pp. 208-213. The text of the Agreement on Part XI is contained in the annex to resolution 48/263.

consistent with the Convention. Unlike the Agreement on Part XI, this instrument does not state that certain provisions of the Convention no longer apply, but rather develops the relevant provisions of the Convention to ensure the long-term conservation and sustainable use of these stocks through the effective implementation of those provisions.

27. It should be noted that outside UNCLOS there have been several examples where the States parties to a treaty have effectively modified the provisions of the treaty by a "subsequent agreement". The Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES Convention) was so modified by a resolution of the Conference of the Parties in 1986, despite an amendment procedure having been included in the Convention. In the constituent treaties of the European Community, references to the "ECU" were replaced by references to the "euro" (something quite different) by a decision embodied in the Conclusions of the Meeting of Heads of State and Government of the 15 member States at Madrid in 1995.[11]

28. Therefore, it seems that the procedure followed by the Meeting of States Parties regarding the postponement of the election of the members of the Tribunal in 1994, and of the members of the Commission in 1995, being the simplest to undertake, could also be considered as an option for the postponement of the date from which the 10-year time period for the submissions to the Commission begins to run.

Possible starting dates for calculating the 10-year time limit

29. If the States Parties would be willing to reconsider the date from which the 10-year time period begins to run, there are several dates other than the entry into force of the Convention for the given State which appear to have merit as the starting date of this period. The first two dates derive from the delay in the establishment of the Commission. The other two reflect the dates of the preparedness of the Commission to consider the potential submissions.

30. It should be recalled that the election of the 21 members of the Commission took place on 13 March 1997. On 16 June 1997, the newly elected members of the Commission undertook their solemn declaration and the Commission began its work. If the delay in the election and the beginning of the functioning of the Commission is to be taken into account, then two dates appear to be possible starting points:

- The date of the election of the members of the Commission: 13 March 1997;
- The date on which the Commission members took the oath of office, which marks the first day of the actual functioning of the Commission: 16 June 1997.

31. Theoretically the Commission would have been ready to start the consideration of any submission received on the first day of its first session. However, as must any other newly elected international body, the Commission had to organize and prepare itself for the performance of its functions. It had to elect its officers, adopt its rules

[11] These and other examples are discussed in A. J. Aust, *Modern Treaty Law and Practice* (Cambridge University Press, 2000), pp. 191-193 and 212-214.

of procedure and agree upon certain scientific and technical criteria to be used in considering the submissions. Therefore, the other two possible dates might be:

- The date of the provisional adoption of the Scientific and Technical Guidelines of the Commission (CLCS/L.6): 4 September 1998;
- The date of the final adoption of the Guidelines (CLCS/11): 13 May 1999.

32. The reason for choosing the third or fourth date would be that the adoption of the Guidelines marked the completion of the three basic documents of the Commission, the other two being the Rules of Procedure (CLCS/3) and the Modus Operandi of the Commission (CLCS/L.3).[12] It is these basic documents, especially the Scientific and Technical Guidelines, that give clear and detailed indications to States as to the procedures to be followed in the preparation of the submission to the Commission, and as to the particulars that would be expected to be included in the submission.

V. Time needed for the Commission to consider a submission

33. With only three years left until 2004, when the 10-year time period expires for the first group of States to make their submissions to the Commission, two other time elements are of special significance: the time which the State will require to collect the necessary data and information and prepare its submission, and the time the Commission will have to spend for consideration of each submission. The first depends, inter alia, on the volume and quality of scientific data already available for each specific region of the ocean, on the length of the coastline, the amount of data to be collected, the geomorphologic features of the continental margin and other technical elements. The second — the length of time the Commission needs to process a submission — depends on the complexity and volume of the material the Commission will have to study and analyse and whether there are other submissions to be considered at the same time. Until the first submission is received and considered and the recommendations are adopted, only rough estimates of the time the Commission may need for this can be made, and those estimates vary from three weeks to two months, or even longer.

34. Since each subcommission to be formed to deal with a submission will be composed of seven members, only three subcommissions could operate at any one time, unless members of the Commission could serve on more than one subcommission at a time, which does not appear to be an impossibility. This could mean that every member of the Commission would have to be on full-time leave from his or her ordinary functions for almost an entire year.

35. If the starting date for calculation of the 10-year deadline is shifted, for example, from 16 November 1994 to 16 June 1997, this might facilitate the situation for those States that would not be able for various reasons to complete the preparation of their submissions before 16 June 2007. However, such a

[12] Both the Modus Operandi and the Rules of Procedure were adopted on 12 September 1997. At that point in time, however, not all provisions in the annexes to the Rules enjoyed consensus among the members of the Commission. Regarding annex II, "Confidentiality", the Commission stated that it would adopt this annex only if and when the issue of the privileges and immunities of its members in dealing with confidential material and in the exercise of all their other functions were resolved positively. The annexes were adopted on 4 September 1998.

postponement would not change the deadlines for those States for which the Convention has entered into force after 16 June 1997. For those States the calculation of the 10-year period would start on the day the Convention has entered into force for each of them.

36. But all this would make no difference to the Commission, for the simple reason that under this scenario members of the Commission would have to consider submissions and prepare the recommendations for the first 14 States within one year, be it in 2004 or 2007. Would the Commission be able to perform such a task within a single year? Would it be conducive to the quality of the work if one member of the Commission had to serve on several subcommissions at the same time?

VI. Reason for a coastal State to make a timely submission to the Commission

Nature of the rights of the coastal State over the continental shelf

37. Under international law, the rights of a coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation. UNCLOS article 77, entitled "Rights of the coastal State over the continental shelf",[13] is almost identical to article 2 of the Geneva Convention of 1958 in recognizing the sovereign rights enjoyed by the coastal State for the purpose of exploring the continental shelf and exploiting its natural resources.

38. Among other decisions on the continental shelf cases, in the *North Sea Continental Shelf* judgment,[14] the International Court of Justice made an unqualified reference to a coastal State's entitlement to the submarine areas constituting a natural prolongation of its land territory into and under the sea; this right exists as a matter of well-established international law regardless of whether the coastal State is party to any international convention on the matter.

39. Under the 1982 Convention, the continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from

[13] Article 77 reads as follows:

"1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

"2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.

"3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

"4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil."

[14] *I.C.J. Reports 1969*, p. 22.

which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.[15]

40. It seems that the provisions of the 1982 Convention concerning the continental shelf have gained wide acceptance: several of the more than 20 coastal States which are not parties to either the Convention on the Continental Shelf, adopted in Geneva on 29 April 1958, or the 1982 Convention, and some of the coastal States which are parties to the 1958 Convention but not the 1982 Convention, have determined in their national legislation that the outer limits of their continental shelf extend up to 200 nautical miles or up to the outer edge of the continental margin.[16] However, for States non-parties to the Convention to attempt to do the same with their continental shelf beyond 200 nautical miles would be equivalent to trying to obtain the benefits of the Convention without being willing to accept the responsibilities incumbent on them, namely the requirement to make a submission to the Commission, as well as to pay the duties specified in article 82.

41. The Convention requires the coastal State to submit to the Commission on the Limits of the Continental Shelf information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of the continental shelf of those States. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

42. Since the right to the continental shelf does not depend on any express proclamation, it cannot be affected by the failure of the coastal State to make its submission to the Commission in accordance with the required 10-year time period. It seems, however, that the exercise of the sovereign rights of the coastal State over that portion of its continental shelf which extends beyond 200 nautical miles would be impeded until such time when a final determination of the outer limits would be made in accordance with the Convention. The rights of the coastal State over the continental shelf are not contested. What is to be determined is the geographical extent of the exercise of those rights.

Benefits from making such a submission

43. In the light of the foregoing, there is a compelling reason for the coastal States to make submissions to the Commission in the manner laid down in the Convention. By establishing the Commission, the Convention accorded to the coastal State a special procedure for establishing the outer limits of the submarine continuation of the continent where its land territory is located, by a means that would be legally

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[15] It should be borne in mind, however, that when the Court pronounced itself on that issue in 1969 the notion of the continental shelf was different from the one defined in article 76 of the Convention, which was adopted in 1982. By not asking the State to provide evidence of the continental nature of the submarine areas up to 200 nautical miles from the baselines, the Convention relieved the coastal State of the necessity of proving, in accordance with the Court's decision, that this, in some cases, huge area is its submarine continental territory, "an extension of its land territory". In so doing, the Convention gave a State the right to exploit its deep seabed areas up to 200 nautical miles from its coast as if it were its geological continental shelf. It is only beyond 200 nautical miles that the coastal State has the obligation to prove that its submarine land territory extends beyond 200 nautical miles.

[16] See A/56/58, annex II, "Summary of national claims to maritime zones".

accepted and respected by all States Parties to the Convention. There is no other legal means to accomplish that aim.

44. The absence of an internationally recognized outer limit of the continental shelf beyond 200 nautical miles from the baselines in any area may afford a lesser degree of precision as to the area under the jurisdiction of the coastal State. For a State to include in its national legislation the general phrase that its continental shelf extends to the outer edge of the continental margin might sound legally correct, but it does not locate the exact position of that outer edge which would be internationally recognized only when considered and recommended by the Commission, accepted by the State, and then incorporated into its national legislation: "The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding."[17]

45. The Convention does not state that the coastal State loses its right to the continental shelf beyond 200 nautical miles if it does not make a timely submission to the Commission. The Convention offers a means to do two things not provided for by customary law. First, it accords a coastal State a "legal" continental shelf up to 200 nautical miles without asking for any evidence that the shelf exists on geological or geomorphologic grounds — the evidence required for the sea floor to be identified as a submerged continuation of the land territory of a particular State. Second, the Convention permits a coastal State to establish the outer limit of its continental shelf even beyond 200 nautical miles, but in this case upon provision of certain scientific data, with these data to be submitted to the Commission within a 10-year time limit specified in the Convention. The extended legal continental shelf, with an additional 60 to 100 nautical miles past the edge of the continental margin, and with boundaries marked as "final and binding" — two benefits extended by the Convention — are the major impetus for States to submit the particulars of the outer limit line of the continental shelf to the Commission.

46. The legal uncertainty may hinder the activities to be undertaken in the international seabed area and raise the issue of the payments and contributions which the coastal State should make annually with respect to all production after the first five years of production at the site on its continental shelf located beyond 200 miles.[18] In addition, until the outer limits are established so that they are final and binding, the requirement for their establishment being that the outer limits are determined "based on the recommendation of the Commission", States with opposite or adjacent coasts are not in a good position to negotiate their joint boundaries in the area beyond 200 miles.

47. Therefore, the expedient determination of the outer limits of the continental shelf beyond 200 nautical miles is beneficial for all States, and not only for those which possess such a shelf.

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[17] Article 76 (8) of the Convention.

[18] According to article 82, a coastal State must make payments and contributions annually with respect to all production after the first five years of production at the site on its continental shelf located beyond 200 miles, and: "For the sixth year, the rate of payment or contribution shall be 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter." The payments or contributions shall be made through the Authority, "which shall distribute them to States Parties to this Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and the land-locked among them".

VII. Partial submissions

48. The term "partial submission" arose during discussions in the Commission of the potential situations where a coastal State might make a submission to the Commission in respect of its extended continental shelf, a portion of which might be under dispute with a neighbouring or opposite State. Article 9 of Annex II to the Convention unequivocally states that "the actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts". Being aware that the mandate of the Commission excludes these matters from its competence, the members of the Commission nevertheless had to agree on rules to be followed by the Commission in case the submission addressed to it includes the areas under dispute.

49. Bearing this in mind, the Commission included in its Rules of Procedure (CLCS/3/Rev.3) an annex I, entitled "Submissions in case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes". From the outset the Commission emphasized that it is not within its competence to deal with disputes between States. Paragraph 1 of the annex unequivocally states that:

> "The Commission recognizes that the competence with respect to matters regarding disputes which may arise in connection with the establishment of the outer limits of the continental shelf rests with States."

50. In order to emphasize that it intends to avoid dealing not only with the "matters relating to delimitation of boundaries between States with opposite or adjacent coasts",[19] but with any other disputes, the Commission made its position even more definite by adding to the case referred to explicitly by the Convention the words "or other cases of unresolved land or maritime disputes". Paragraph 2 of annex I of the Rules of Procedure of the Commission reads:

> "2. In case there is a dispute in the delimitation of the continental shelf between opposite or adjacent States, or in other cases of unresolved land or maritime disputes, in relation to the submission, the Commission shall be:
>
> (a) Informed of such disputes by the coastal States making the submission;
>
> (b) Ensured by the coastal States making the submission to the extent possible that the submission will not prejudice matters relating to the delimitation of boundaries between States."

51. Paragraph 3 stipulates that "a submission may be made by a coastal State **for a portion of its continental shelf** [emphasis added] in order not to prejudice questions relating to the delimitation of boundaries between States in any other portion or portions of the continental shelf for which a submission may be made later, notwithstanding the provisions regarding the 10-year period established by article 4 of Annex II to the Convention".

52. Paragraph 4 provides for joint or separate submissions requesting the Commission to make recommendations by agreement either without regard to the delimitation of boundaries between those States, or having indicated by means of

[19] Article 9 of Annex II to the Convention.

geodetic coordinates the extent to which a submission is without prejudice to the matters relating to delimitation of boundaries with another or other States Parties to the agreement.

53. Paragraph 5 provides for the Commission to examine one or more submissions in the areas under dispute only with prior consent given by all States that are parties to such a dispute, and only if the submissions by the States and recommendations by the Commission do not prejudice the position of States with are parties to a land or maritime dispute.

54. In all the above-mentioned cases the coastal State is allowed to make a submission covering less than the entire outer limit of its extended continental shelf; it may submit that portion which is free of any unresolved maritime or land disputes with other States. However, these provisions apply only when the submission in respect of the entire line forming the outer limits of the continental shelf cannot be made because part of the shelf is under dispute, and only for that portion which is disputed.

55. The question arises as to the possibility of cases other than those involving a dispute which might justify the Commission's accepting an incomplete submission. It should be noted that partial submissions were not addressed explicitly by the negotiators of the Convention, nor were they prohibited.

56. It seems that in practice, despite good-faith efforts of the coastal State to make a submission, technical difficulties may lead to a partial submission. These may include environmental dangers and uncertainties in gathering data using traditional available methodologies, or uncertainties resulting from the geophysical structure of the continent (e.g. ice-covered areas[20]). Extreme weather conditions, or unavailability of affordable technical assistance in the areas which are very difficult to access, may pose a problem preventing the submission of the full data concerning the continental shelf.

57. There could be other difficulties of an economic, financial or technical nature. For example, a developing State may have some information which would be sufficient for the standards set in article 76, and elaborated upon in the Scientific and Technical Guidelines, along parts of its outer limit, e.g., information of a bathymetric nature. However, let us say that the State has reason to believe that along a portion of that outer limit, sediment thickness readings would yield a line further seaward, but the State had not had the technical ability, money or time to take the core samples which would verify the further seaward line. May the State, in order to comply with the 10-year time limit, put in the submission, with a caveat that it is still attempting to confirm that a further seaward line between points A and B would be the real outer limit to which it would be entitled under article 76? Will the Commission then consider the rest of the submission, pending confirmation of the data regarding the section between points A and B?

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[20] For example, it is very difficult to obtain the seismic data giving thickness of sedimentation in ice-covered areas, since seismic profiling cannot be carried out over areas covered by permanent ice pack in the same manner as in open water (see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IX (United Nations publication, Sales No. E.79.V.3), Documents of the Conference, document A/CONF.62/C.2/L.98).

58. Although the Commission has not spoken on this point, it has been observed by the participants at the Open Meeting of the Commission on 1 May 2000 that there is no provision in the Convention to preclude the coastal State from making a partial submission, pending further elaboration or submission of supplemental information. In fact, the consideration of the Commission may result in a recommendation to the State to modify parts of its outer limit line, or the Commission may request further information about certain sections of the outer limits. The State is then given the opportunity to revise the recommendation and re-submit it to the Commission, in accordance with article 8 of Annex II to the Convention, which states: "In the case of disagreement by the coastal State with the recommendation of the Commission, the coastal State shall, within a reasonable time, make a revised or new submission to the Commission." It may be supposed that the same "reasonable time" provision applies to the provision of further information requested by the Commission. It could seem reasonable then that the State may submit the best information it has available before the expiration of its 10-year time limit, with the caveat that it will be submitting further information, and be deemed to have made a submission within the required 10-year time limit without prejudice to its rights to define the outer limit of its continental shelf.

VIII. Actions taken by the Commission, the Meeting of States Parties and the General Assembly to assist States with respect to the scientific and technical expertise required in preparing submissions to the Commission

59. The first issue raised by the tenth Meeting in this context was regarding the possible means by which assistance could be provided with respect to the scientific and technical expertise required by those States preparing submissions, particularly developing countries, and especially the least developed among them, to enable them to prepare a well-researched submission to the Commission.

60. It may be recalled that one of the functions of the Commission on the Limits of the Continental Shelf is to provide scientific and technical advice, if requested by the coastal State concerned during the preparation of the data and other material concerning the outer limits of its continental shelf in areas where those limits extend beyond 200 nautical miles. At its first session, the Commission elected a Standing Committee to deal with such requests and provide such assistance (CLCS/1, para. 14).

Training

61. The Commission, aware of the highly complex nature of the Guidelines, decided to take two important steps to assist coastal States in applying them. The first was to hold an open meeting, which took place on 1 May 2000. The second was to design an outline for a five-day training course.

62. The open meeting was held in New York on the first day of the seventh session of the Commission (1-5 May 2000). It was aimed at flagging the most important issues related to the establishment of the continental shelf beyond 200 miles, and was intended also to give a general indication to policy makers and legal advisers of

the benefits that a coastal State might derive from the valuable resources of the extended continental shelf, and to explain to experts in marine sciences who were involved in the preparation of submissions how the Commission considered that its Scientific and Technical Guidelines should be applied in practice. Approximately 100 government officials, members of intergovernmental organizations, legal advisers and experts in marine sciences related to the establishment of an extended continental shelf attended the meeting (CLCS/21, paras. 4-5).

63. The outline for a five-day training course was finalized at the eighth session of the Commission (31 August-4 September 2000). It was preceded by a basic flowchart for the preparation of a submission to the Commission (CLCS/22). The major goal of the outline was to aid States, especially developing States, in further acquiring the knowledge and skills to prepare a submission.

64. Since it is not part of the mandate of the Commission to conduct or organize training, the suggested course could be developed and delivered by interested Governments and/or international organizations and institutions that possess the necessary facilities and pedagogic and subject expertise. The aim of the outline developed by the Commission is to facilitate the preparation of submissions in accordance with the letter and spirit of the Convention, as well as with the Guidelines of the Commission. It is expected that courses offered using a standard outline would help ensure a uniform and consistent practice in the preparation of submissions to the Commission. In fact, one course has already been given, using the outline prepared by the Commission.[21]

65. The five-day training course produced by the Commission could also be adapted by interested educational institutions to the particular needs of coastal States at the regional level, which would have several practical advantages. Offering courses to be held in, and designed for, specific regions would be cost-effective for developing countries in the particular region. Such courses may take into account the wide variety in types of continental margins in different areas of the oceans, as well as the ways of applying the criteria contained in the Convention.

Establishment of voluntary trust funds

66. It may be recalled that the tenth Meeting of States Parties recommended to the General Assembly at its fifty-fifth session the establishment of two voluntary trust funds related to the establishment of an extended continental shelf in accordance with the provisions of article 76 of the Convention (SPLOS/58 and 59). Both trust funds were established by the General Assembly in its resolution 55/7 of 30 October 2000 (paras. 18 and 20).

67. The first fund was to provide assistance to States Parties to meet their obligations under article 76 of the Convention, as well as training to countries, in particular the least developed among them and small island developing States, for preparing submissions to the Commission with respect to the outer limits of the continental shelf beyond 200 nautical miles. The second fund was established to

[21] A five-day training course on the delineation of the outer limits of the continental shelf beyond 200 nautical miles was held in Southampton, United Kingdom, from 26 to 30 March 2001. It was offered jointly by the Southampton Oceanography Centre and the Hydrographic Office of the United Kingdom.

enable members of the Commission from developing countries to participate fully in the work of the Commission.

68. Of the two, it is only the first fund that is related to the issue of scientific and technical assistance to developing States. The purpose of the fund is: (a) to provide assistance to States Parties to meet their obligations under article 76 of the Convention, and (b) to provide training to countries, in particular the least developed among them and small island developing States, for preparing submissions to the Commission with respect to the outer limits of the continental shelf beyond 200 nautical miles, as appropriate (SPLOS/59). A contribution of US$ 1 million has been made by Norway to the fund, and the United Nations is taking the steps required for its practical operation. In its resolution 55/7, the General Assembly invited not only States, but also intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, to make voluntary financial or other contributions to the fund. The terms of reference of the fund are contained in annex I to the resolution. The impending deadline for submissions to the Commission of November 2004 for many developing States has lent a sense of urgency to the establishment and use of this fund.

69. The fund may be used to provide training to the appropriate technical and administrative staff of the coastal State making a submission to enable them to carry out initial desktop studies and project planning, as well as to prepare the final submission documents after the necessary data have been acquired. The fund may be used as well to provide for advisory assistance or consultancies, if needed.

70. The preparation of the submission documents must be in conformity with the provisions of article 76 and Annex II to the Convention (and, as appropriate, Annex II of the Final Act of the Third United Nations Conference on the Law of the Sea) and the Scientific and Technical Guidelines of the Commission. The training provided should take these requirements into account and should aim at enabling the State's personnel to prepare most of the required documents themselves. The preparation of the submission to the Commission may entail other costs that may be met through the fund (e.g., software and hardware equipment, technical assistance, etc.).

IX. Conclusion

71. There appear to be several possibilities for dealing with the issue of the 10-year time limit, e.g., to revise its duration, to change the starting date on which the 10-year time limit begins to run, or to accept the possibility for the Commission to receive "partial" submissions that could be supplemented by the coastal State within a reasonable time.

72. The Meeting of States Parties may wish to consider a procedure similar to that followed for postponing the election of the members of the Tribunal and of the members of the Commission, that is, by "general agreement", which is discussed in chapters III and IV above. However, in considering this option States Parties should recall that the decisions in 1994 and 1995 were on matters of an organizational nature, taken before the members of the Tribunal and the Commission were elected. Today the Commission is fully established and operational.

73. Should a "general agreement" appear unattainable or inappropriate, it should be borne in mind that to agree upon some of the options listed above might entail the application of the legal procedures specified in articles 312 (Amendment) or 313 (Amendment by simplified procedure). It should be recalled that, if article 313 is applied, should any State Party object to the proposed amendment within 12 months of its circulation, the amendment will be considered rejected.

74. Other options, such as the acceptance of partial submissions, do not require any amendment to the Convention, and do not seem to be at variance with the provisions of the Convention. However, the Commission should have the option of not accepting for consideration a submission that appears to be so bereft of data and material relevant to the outer limits that it cannot proceed with a genuine evaluation of the outer limit line. The Commission should also have flexibility in deciding when to consider a submission, including the ability to defer its consideration, upon the request of a submitting State, should the members of the Commission agree to do so, in order to permit the collection of supplementary data, or for other reasons. The Meeting might wish to consult the Commission before taking action on this matter.

75. In considering whether it is in the interests of international stability to force States to adhere to the 10-year time limit, it might be advisable to note that several States with apparently very extensive areas of continental shelf beyond 200 nautical miles have not yet ratified the Convention (e.g., Canada, Denmark, United States of America). As of now there is no clear notion of the year in which their deadline will fall. Since they will not be faced with a time limit until they do ratify or accede to the Convention, a great deal of the area which would fall under the extended continental shelf, for which the firm delineation of its outer limits is important, will probably not be stabilized at least within the next decade.

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Letter dated 30 April 2001 from the Chairman of the Commission on the Limits of the Continental Shelf addressed to the President of the Eleventh Meeting of States Parties

1. In a letter dated 3 June 1999 (SPLOS/49) from the President of the Ninth Meeting of States Parties addressed to the Chairman of the Commission on the Limits of the Continental Shelf concerning the issue of financing the participation of members from the developing countries in the work of the Commission, the Commission was informed that in order to formulate any recommendations on this issue the Meeting need detailed factual information in writing from the Commission regarding actual needs and financial estimates for each session, and that without that information it would be difficult to take any action.

2. In a letter dated 5 May 2000 (SPLOS/52) from the Chairman of the Commission on the Limits of the Continental Shelf to the President of the Tenth Meeting of States Parties, detailed factual information was given regarding actual needs and financial estimates for each session of the Commission. This was requested by the States Parties to enable the Meeting to take a decision regarding whether to recommend to the General Assembly of the United Nations the establishment of a voluntary trust fund for the purpose of meeting the costs of participation (travel expenses and daily subsistence allowance) of the members of the Commission from developing countries in the meetings of the Commission. The Meeting took a decision to recommend the establishment of that fund (SPLOS/58).

3. In addition, the Meeting recommended to the General Assembly the establishment of an additional voluntary fund for the purpose of facilitating compliance under article 76, and meeting the need for dissemination of information and for training of personnel of developing countries with respect to that compliance (SPLOS/59).

4. On 30 October 2000, the General Assembly adopted resolution 55/7, which contained, inter alia, a request for the establishment of the two voluntary trust funds mentioned above. The establishment of a voluntary fund for the purpose of defraying the costs of participation of members of the Commission from developing States in the meetings of the Commission was requested in paragraph 20 of the resolution.

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5. The General Assembly, in paragraph 18 of the same resolution, also requested the establishment of the additional fund related to article 76 and the work of the Commission. This fund was to provide training for technical and administrative staff, and technical and scientific advice, as well as personnel, to assist developing States, in particular the least developed countries and small island developing States, for the purpose of desktop studies and project planning. It was also aimed at helping those States to prepare and submit information under article 76 and annex II to the Convention in accordance with the procedures of the Scientific and Technical Guidelines of the Commission on the Limits of the Continental Shelf. It included a provision requesting an annual report to the General Assembly on the status of the fund. The terms of reference of the fund were contained in annex II to the resolution. As you may be aware, a grant of US$ 1 million has already been received by the United Nations for the fund, and steps have been taken to enable the fund to begin operation as soon as possible.

6. As Chairman of the Commission, I would like to convey, on behalf of the members of the Commission, our sincere gratitude for the vital role played by the Meeting of States Parties in the creation of these two funds. The decisions taken by the Tenth Meeting reflect the concerns shared by both the Commission and the Meeting that States, especially developing States, should be enabled to prepare a substantial submission to the Commission to establish their continental shelves beyond 200 nautical miles, and to be in a position to take advantage of the economic benefits which will lead to an improvement in their economic status, and an enhancement of the economic welfare of their people.

7. A full account of the work of the Commission in 2000 is found in the most recent report of the Secretary-General on "Oceans and the Law of the Sea" (A/56/58, paras. 52-82). In regard to actions taken recently by the Commission in furtherance of the development of the knowledge and skills for preparation of a submission in respect of the outer limits of the continental shelf provided for by the Convention, paragraphs 61 to 64 describe the documents prepared and actions taken. For example, a basic flowchart for preparation of a submission to the Commission on the Limits of the Continental Shelf was designed (CLCS/22).

8. In the context of its responsibilities to provide advice to coastal States, the Commission also prepared an outline for a training course of approximately five days' duration, aimed at practitioners who would take part in the preparation of the submission of a coastal State (CLCS/24). The outline was developed by the Commission to facilitate the preparation of submissions in accordance with the letter and spirit of the Convention, as well as with the Guidelines of the Commission. It was also hoped that courses offered using a standard outline would help ensure a uniform and consistent practice in the preparation of submissions to the Commission.

9. In this context, it must be noted that it is not part of the mandate of the Commission to conduct or organize training. The suggested course could be developed and delivered by interested Governments and/or international organizations and institutions that possess the necessary facilities and pedagogic and subject expertise. In fact, a five-day training workshop, using the outline published by the Commission as its basic work plan, has already taken place.

10. In the light of the above-mentioned information, I would like to request the Meeting to invite interested States, as well as international organizations and

institutions that possess the necessary facilities and pedagogic and subject expertise, to organize training to assist States. Courses could be adapted from the outline for a training course and fitted to the particular needs of coastal States at the regional level, which would have several practical advantages. First, offering courses to be held in, and designed for, specific regions would be cost-effective for developing countries in the region. Second, such courses may take into account the wide variety in types of continental margins in different areas of the oceans, as well as the ways of applying the criteria contained in the Convention.

11. As stipulated in the terms of reference of the trust fund established in accordance with paragraph 18 of General Assembly resolution 55/7, interested developing States, especially least developed States and small island developing States, may wish to consider taking steps to address requests for assistance from the trust fund as soon as it has been fully established and is operational. The Commission would also like to call for additional political and financial support for the trust fund for training, as well as for programmes, especially for developing countries, within the United Nations system and through other appropriate international or regional organizations.

12. Once again, I would like to call to the attention of the States Parties that the Commission is ready to receive submissions from coastal States. As mentioned in previous letters to the President of the Meeting of States Parties, the basic documents of the Commission related to those preparations are the Rules of Procedure (CLCS/3/Rev.3), the Modus Operandi (CLCS/L.3) and the Scientific and Technical Guidelines (CLCS/11, and Add.1 and Corr.1). These documents, as well as the most recent documents of the Commission, including the statement by the Chairman summarizing the debate and reflecting the decisions of the Commission (CLCS/25), are available to participants during the Meeting of States Parties.

(*Signed*) Yuri B. **Kazmin**
Chairman of the Commission on the Limits of the Continental Shelf

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Notes verbales from the Government of Seychelles regarding the extension of the time period for submission to the Commission on the Limits of the Continental Shelf

Note by the Secretariat

1. On 29 December 2000, and earlier on 6 October 1998, the Ministry of Foreign Affairs of Seychelles addressed notes verbales to the Secretary-General of the United Nations. The Government of Seychelles is of the opinion that it was adversely affected by the late election of members of the Commission on the Limits of the Continental Shelf, and thus requests that consideration be given to an extension of time in which to submit particulars of the outer limits of its continental shelf to the Commission. The Government refers to the decision of the Third Meeting of States Parties to the United Nations Convention on the Law of the Sea (SPLOS/5, para. 20), which states:

> "It was agreed that the election of the members of the Commission would be postponed till March 1997, with the proviso that should any State which is already a Party to the Convention by 16 May 1996 be affected adversely in respect of its obligations under article 4 of Annex II to the Convention as a consequence of the change in the date of the election, States Parties, at the request of such a State, would review the situation with a view to ameliorating the difficulty in respect of that obligation."

2. The notes were forwarded to the President of the Meeting of States Parties to the United Nations Convention on the Law of the Sea. The President of the Tenth Meeting of States Parties has requested the Secretariat to circulate the attached notes verbales (see annexes I and II) at the current Meeting of States Parties under item 15 of the provisional agenda, entitled "Issues with respect to article 4 of Annex II to the United Nations Convention on the Law of the Sea".

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Annex I

Note verbale dated 29 December 2000 from the Ministry of Foreign Affairs of Seychelles addressed to the Secretary-General

The Ministry of Foreign Affairs of the Republic of Seychelles presents its compliments to the Secretary-General of the United Nations, and has the honour to refer to the correspondence dated 19 October 1998 from the Division for Ocean Affairs and the Law of the Sea in relation to the extension of time on submissions to the Commission on the Limits of the Continental Shelf.

Following the Third Meeting of the States Parties to the Convention on the Law of the Sea, it was agreed that States adversely affected by the postponement of the election of members of the Commission until March 1997 could apply for an extension of time in which to submit their proposals to the Commission.

The Government of Seychelles is of the opinion that it was adversely affected by the late election of members of the Commission on the Continental Shelf, and hereby requests that consideration be given to an extension of time in which to submit particulars of the outer limits of the continental shelf to the Commission.

Annex II

Note verbale dated 6 October 1998 from the Ministry of Foreign Affairs of Seychelles addressed to the Secretary-General

The Ministry of Foreign Affairs of the Republic of Seychelles presents its compliments to the Secretary-General of the United Nations, and has the honour to refer to the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS).

The Republic of Seychelles, having ratified UNCLOS, is in the process of undertaking the steps necessary to comply with articles 74 and 76 of the Convention and with article 4 of Annex II, on the Commission on the Limits of the Continental Shelf, by completing the delimitation of its land and marine territory.

In this context, the Government of Seychelles would be most appreciative if the Secretary-General, through the secretariat of UNCLOS, could advise whether and when there has been a revision of the date of commencement of the 10 years' grace period for submission to the Commission on the Limits of the Continental Shelf, as defined in article 4 of Annex II to the Convention.

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Position paper on the time frame for submissions to the Commission on the Limits of the Continental Shelf

Submitted by Australia, Fiji, Marshall Islands, Micronesia (Federated States of), Nauru, New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu

1. The Pacific Island Forum States share a common vision about the importance of ocean space and the resources found within the marine environment. When the United Nations Convention on the Law of the Sea was concluded in 1982, the Pacific Island Forum States were quick to embrace the Convention as being of fundamental importance to their future well-being. The hope that the new ocean regime would create opportunities for the Pacific Island Forum States is not without foundation. No other region is as dependent on the ocean environment as the South Pacific. The small island States of the region are and will continue to be dependent upon the ocean for transportation, economic development (such as the tuna fishery), food and sustenance.

2. In the context of establishing the limits of an extended continental shelf beyond 200 nautical miles, the vast non-living marine resources that are known to occur on and beneath the deep seabed of the Pacific Ocean provide further opportunities that could provide the Pacific Island Forum States with an additional measure of economic independence. The Convention provides a framework for both developed and developing countries to benefit from the resources of the ocean. When the late Arvid Pardo argued that the wealth of the deep seabed should be appropriated as the common heritage of mankind, he was also stating that no one State should be disadvantaged from enjoying the benefits from the oceans on account of its lack of financial and technical resources. The imbalance in resources to take full advantage of the rights and responsibilities and the opportunities in the Convention is well recognized by the international community and by the Convention itself. There are very important provisions contained in the Convention that pertain to transfer of technology to enable developing countries and those with limited capacity to fulfil their obligations under the Convention.

3. Coastal States have inherent rights to a continental shelf. Beyond 200 nautical miles from baselines, coastal States are required to define the limits of any extended continental shelf. The Pacific Island Forum States have for some time expressed concern that their inability to satisfy the technical requirements of compliance with Annex II to the Convention might prejudice their opportunity to establish the limits of an extended continental shelf beyond 200 nautical miles. For such States it may be difficult or impossible even to make a partial submission within the 10-year time frame (so as to enable them to follow up in due course with a complete submission in terms of the Convention). The scientific and technical work that is required to support a submission to the Commission on the Limits of the

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Continental Shelf is highly complex and beyond the capacity of most small island States. This problem is exacerbated by the fact that, in many cases, zones of national jurisdiction, including territorial seas, archipelagic seas and exclusive economic zones, have not been accurately defined. In addition, fixing the limits for some continental shelf areas may involve scientific and technical issues of such complexity that they are unable to be resolved within the 10-year period, irrespective of the financial resources of the State involved. The report of the Tenth Meeting of States Parties states that:

> "The Meeting expressed general support for the concerns voiced regarding the difficulty in complying with the 10-year time limit. It decided to include in its agenda for the eleventh Meeting an item entitled "Issues with respect to article 4 of Annex II to the United Nations Convention on the Law of the Sea" and requested the Secretariat to prepare a background paper." (SPLOS/60, para. 62)

4. The Pacific Island Forum States are pleased to note that the issue has been placed on the agenda of the eleventh Meeting of States Parties. In considering this issue further, the Pacific Island Forum States request the States Parties to note that the Convention did not enter into force until November 1994. Further, under Annex II, the election of members of the Commission on the Limits of the Continental Shelf was to have taken place 18 months from the date of entry into force of the Convention, by July 1996. States Parties will recall that the election of the members was delayed beyond that date and the first meeting of the Commission was not convened until June 1997, three years after the entry into force of the Convention. The Commission did not adopt its Scientific and Technical Guidelines until May 1999.

5. The problems in rendering the Commission fully operational within the time frame envisaged under the Convention have had serious implications for the ability of States to commence preparations for the submission of claims as required under article 76 and Annex II to the Convention. This particularly affects thos States which had demonstrated their support of the Convention through early ratification and for which the 10-year period prescribed in Annex II expires in 2004.

6. The Guidelines adopted by the Commission highlight the complexity of the issues involved in the interpretation and application of article 76 of the Convention. The preparation of a submission requires the consideration of many technical issues, such as the identification of basepoints, the foot of slopes, sediment thickness and the 2,500-metre isobath. This requires the analysis of bathymetric, geological and geophysical data as well as geodetic methodologies. The requirements are difficult for all States to meet, let alone those with limited capacity.

7. It must be recalled that the purpose of the 10-year time period in Annex II was to ensure that the boundaries between areas under national jurisdiction and the deep seabed beyond national jurisdiction (the Area) were resolved in a timely manner to allow for the management activities in the Area in accordance with the Convention. In 1982, the commencement of deep seabed mining appeared to be imminent. In 2001, however, it is clear that seabed mining is unlikely to take place until some time in the future. The practical need to identify the limits of the Area is no longer a matter of such urgency.

8. The Pacific Island Forum States strongly urge the following:

(a) That the States Parties agree to extend the 10-year period prescribed in Annex II; such an extension to be agreed through a decision of the Meeting of States Parties or through an understanding on the interpretation of Annex II;

(b) Such an understanding to include an agreement that the 10-year period would not begin to run for any State Party, regardless of its date of ratification or accession, until the date of adoption of the Commission's Guidelines;

(c) The time for making a submission to be further extended beyond 10 years where a State Party has been unable, for technical reasons, including lack of technical capacity, to comply in good faith with the time limitation.

United Nations Convention on the Law of the Sea SPLOS/68

Meeting of States Parties

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Meeting of States Parties
Eleventh Meeting
New York, 14-18 May 2001

Agenda

1. Opening of the Eleventh Meeting by the President of the Tenth Meeting.
2. Minute of silent prayer or meditation.
3. Election of the President.
4. Adoption of the agenda.
5. Election of the Vice-Presidents.
6. Appointment of the Credentials Committee.
7. Organization of work.
8. Report of the International Tribunal for the Law of the Sea to the Meeting of States Parties (2000) (rule 6 of the rules of procedure of the Meeting of States Parties) (SPLOS/63).
9. Draft budget of the International Tribunal for the Law of the Sea for 2002, as submitted by the Tribunal (SPLOS/WP.13 and SPLOS/WP.15).
10. Election of one member of the International Tribunal for the Law of the Sea (SPLOS/61 and SPLOS/62).
11. Consideration of the Financial Regulations of the International Tribunal for the Law of the Sea (SPLOS/WP.14 and Corr.1 and SPLOS/CRP.27).
12. Report of the External Auditors for the financial year 1999, with financial statements of the International Tribunal for the Law of the Sea as of 31 December 1999 (SPLOS/53).
13. Rules of procedure of the Meeting of States Parties, in particular the rules dealing with decisions on questions of substance (rule 53) and the establishment of a finance committee (SPLOS/CRP.20/Rev.1 and SPLOS/CRP.26).
14. Matters related to article 319 of the United Nations Convention on the Law of the Sea.
15. Issues with respect to article 4 of annex II to the United Nations Convention on the Law of the Sea (SPLOS/64, SPLOS/66 and SPLOS/67).
16. Other matters.

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United Nations Convention on the Law of the Sea SPLOS/69

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New York, 14-18 May 2001

Credentials of representatives to the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea

First Report of the Credentials Committee

Chairman: Mr. Ferry **Adamhar** (Indonesia)

1. At its fifty-fifth meeting, on 15 May 2001, the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea appointed a Credentials Committee consisting of the following nine members: China, Indonesia, Monaco, Romania, Sierra Leone, the Sudan, Trinidad and Tobago, the United Kingdom of Great Britain and Northern Ireland and Uruguay.

2. The Credentials Committee held its first meeting on 15 May 2001.

3. Mr. Ferry Adamhar (Indonesia) was unanimously elected Chairman.

4. The Committee had before it a memorandum by the Secretariat, dated 14 May 2001, on the status of credentials of representatives participating in the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea. The Secretariat made a statement supplementing the memorandum by the Secretariat with regard to including those credentials and communications received subsequent to the preparation of the memorandum.

5. As noted in paragraph 1 of the memorandum by the Secretariat, as orally supplemented during the meeting, formal credentials issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them had been received by the Secretariat for the representatives of the following 52 States participating in the Eleventh Meeting of States Parties: Algeria, Antigua and Barbuda, Australia, Bahrain, Belgium, Belize, Bolivia, Brunei Darussalam, Bulgaria, Chile, China, Croatia, Cyprus, Czech Republic, Finland, Germany, Guatemala, Indonesia, Iraq, Ireland, Japan, Kuwait, Malaysia, Mexico, Monaco, Myanmar, Nauru, Netherlands, New Zealand, Norway, Pakistan, Paraguay, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Sudan, Sweden,

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the former Yugoslav Republic of Macedonia, Tonga, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, Viet Nam and Yugoslavia.

6. As noted in paragraph 2 of the memorandum by the Secretariat, as orally supplemented during the meeting, information concerning the appointment of representatives participating in the Eleventh Meeting of States Parties had been communicated by means of facsimile or in the form of letters or notes verbale from Ministries, Embassies, Permanent Missions to the United Nations or other government offices or authorities, or through local United Nations offices, by the following 40 States participating in the Eleventh Meeting of States Parties: Argentina, Austria, Bahamas, Bosnia and Herzegovina, Brazil, Cape Verde, Costa Rica, Cuba, Democratic Republic of the Congo, Djibouti, Fiji, France, Ghana, Greece, Honduras, Iceland, India, Italy, Jamaica, Kenya, Lao People's Democratic Republic, Lebanon, Malta, Mongolia, Namibia, Nepal, Oman, Panama, Papua New Guinea, Samoa, Solomon Islands, Spain, Suriname, Togo, Tunisia, Uganda, Ukraine, United Republic of Tanzania, Uruguay and Yemen.

7. The Chairman proposed that the Committee accept the credentials of all the representatives mentioned in the memorandum by the Secretariat, supplemented by the additional information provided by the Secretariat during the meeting of the Credentials Committee, on the understanding that formal credentials of representatives referred to in paragraph 2 of the Secretariat's memorandum would be communicated to the Secretariat as soon as possible. The following draft resolution was proposed by the Chairman for adoption by the Committee:

> "*The Credentials Committee,*
>
> "*Having examined* the credentials of the representatives to the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea referred to in paragraphs 1 and 2 of the memorandum by the Secretariat dated 14 May 2001, supplemented by the additional information provided by the Secretariat during the meeting of the Credentials Committee,
>
> "*Accepts* the credentials of the representatives concerned."

8. The draft resolution was adopted by the Committee without a vote.

9. Subsequently, the Chairman proposed that the Committee recommend to the Eleventh Meeting of States Parties the adoption of a draft resolution (see para. 11). The proposal was adopted without a vote.

10. In the light of the foregoing, the present report is submitted to the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea.

Recommendation of the Credentials Committee

11. The Credentials Committee recommends to the Eleventh Meeting of States Parties the adoption of the following draft resolution:

"Credentials of representatives to the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea

"*The Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea*

"*Approves* the first report of the Credentials Committee."

United Nations Convention on the Law of the Sea SPLOS/69/Add.1

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Eleventh Meeting
New York, 14-18 May 2001

Credentials of representatives to the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea

Second report of the Credentials Committee

Addendum

Chairman: Mr. Ferry **Adamhar** (Indonesia)

1. At its fifty-fifth meeting, on 15 May 2001, the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea appointed a Credentials Committee consisting of the following nine members: China, Indonesia, Monaco, Romania, Sierra Leone, the Sudan, Trinidad and Tobago, the United Kingdom of Great Britain and Northern Ireland and Uruguay.

2. The Credentials Committee held its first meeting on 15 May 2001.

3. The Credentials Committee held its second meeting on 16 May 2001. The meeting was chaired by Mr. Ferry Adamhar (Indonesia), who had been unanimously elected Chairman of the Committee at its first meeting.

4. The Credentials Committee had before it a memorandum by the Secretariat, dated 16 May 2001, on the status of credentials of representatives participating in the Eleventh Meeting of States Parties, which had been received by the Secretariat following the first meeting of the Credentials Committee on 15 May. The Secretariat made a statement supplementing its memorandum to include those credentials and communications received subsequent to its preparation.

5. As noted in paragraph 1 of the memorandum of the Secretariat, as orally supplemented during the meeting, formal credentials issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them have been received by the Secretariat for the representatives of the following 12 States participating in the Eleventh Meeting of States Parties: Argentina, Bahamas, Barbados, Cape Verde, Egypt, Iceland, Italy, Jamaica, Micronesia (Federated States of), Mozambique, Namibia and Papua New Guinea.

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6. As noted in paragraph 2 of the memorandum, as orally supplemented during the meeting, information concerning the appointment of representatives participating in the Eleventh Meeting of States Parties had been communicated by means of facsimile, form letters or notes verbale from Ministries, Embassies, Permanent Missions to the United Nations or other Government offices or authorities, or through local United Nations offices, by the following five States participating in the Eleventh Meeting: Angola, Cameroon, Grenada, Nigeria and the Philippines.

7. The Chairman proposed that the Committee accept the credentials of all the representatives mentioned in the memorandum of the Secretariat dated 16 May 2001, supplemented by the additional information provided by the Secretariat during the meeting of the Credentials Committee, on the understanding that formal credentials of representatives referred to in paragraph 2 of the Secretariat's memorandum would be communicated to the Secretariat as soon as possible. The following draft resolution was proposed by the Chairman for adoption by the Committee:

> *"The Credentials Committee,*
>
> *"Having examined* the credentials of the representatives to the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea referred to in paragraphs 1 and 2 of the memorandum of the Secretariat dated 16 May 2001, supplemented by the additional information provided by the Secretariat during the meeting of the Credentials Committee,
>
> *"Accepts* the credentials of the representatives concerned."

8. The draft resolution was adopted by the Committee without a vote.

9. Subsequently, the Chairman proposed that the Committee recommend to the Meeting of States Parties the adoption of a draft resolution (see para. 11 below). The proposal was adopted without a vote.

10. In the light of the foregoing, the present report is submitted to the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea.

Recommendation of the Credentials Committee

11. The Credentials Committee recommends to the Eleventh Meeting of States Parties the adoption of the following draft resolution:

> **"Credentials of representatives to the Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea**
>
> *"The Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea,*
>
> *"Approves* the second report of the Credentials Committee."

United Nations Convention on the Law of the Sea SPLOS/70

Meeting of States Parties

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17 May 2001

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Meeting of States Parties
Eleventh Meeting
New York, 14-18 May 2001

Decisions on budgetary matters of the International Tribunal for the Law of the Sea for 2002

1. The Meeting of States Parties approves the budget of the International Tribunal for the Law of the Sea for 2002, amounting to US$ 7,807,500, as set out in annex I to the present document, together with the staffing table for the Registry of the Tribunal in 2002, as contained in annexes II and III.

2. With a view to providing the Tribunal with the necessary financial means to consider cases in 2002, in particular those requiring expeditious proceedings, the Meeting approves an amount of US$ 894,300 in 2002 as contingency funds of the Tribunal. The contingency funds shall only be used in the event of cases being submitted to the Tribunal.

3. The Meeting also approves an amount of US$ 50,000 to be appropriated to the Working Capital Fund of the Tribunal in 2002, in order to build up the Working Capital Fund to the recommended level of US$ 650,000.

4. Without prejudice to the application of the provisions of article 19 of annex VI to the United Nations Convention on the Law of the Sea in respect of future budgets of the Tribunal regarding the contribution to be made by the International Seabed Authority, the budget of the Tribunal for 2002, including its contingency funds in 2002, amounting to US$ 984,300, and appropriations to its Working Capital Fund in 2002, amounting to US$ 50,000, will be financed by all States and international organizations that are Parties to the Convention.

5. The contributions to be made by States Parties shall be based upon the scale of assessments for the regular budget of the United Nations for the preceding financial year, adjusted to take account of participation in the Convention. The Meeting of States Parties decided that a floor rate of 0.01 per cent and a ceiling rate of 25 per cent will be used in establishing the rate of assessment for States Parties for the budget of the Tribunal for 2002.

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Annex I

Administrative expenses of the Tribunal covering the period from 1 January to 31 December 2002

(In United States dollars)

	Objects of expenditure	Approved budget for 1998	Performance 1998	Approved budget for 1999	Performance 1999	Approved budget 2000	Draft performance 2000 as at 05 Mar 2001	Approved budget 2001	Proposed budget 2002	fn	Difference/ increase
1	Recurrent expenditure										
2	Remuneration of judges										
3	Annual allowances	1 671 330	1 788 161	1 175 000	1 136 325	1 295 107	1 277 251	1 295 100	1 295 100	a	0
4	Special allowances			1 173 000	1 062 880	311 717	310 081	328 800	318 089	a	-11 508
5	Travel of judges to meetings	250 000	141 662	240 000	221 731	240 000	218 753	120 000	120 000		0
6	Judges' pension scheme			28 197	3 837	18 888	18 839	15 400	78 000		59 600
7	Established posts	1 784 666	1 579 331	2 197 700	2 125 018	2 413 725	1 886 846	2 523 900	2 187 700	b	-336 200
8	Common staff costs	624 661	442 141	734 030	841 135	806 194	624 397	841 300	729 200	c	-112 100
9	General temporary assistance	57 000	84 163	120 000	118 469	120 000	42 273	120 000	100 000		-20 000
10	Overtime	20 000	20 000	46 330	46 330	46 330	44 118	80 300	80 300		0
11	Representation allowance	7 000	7 000	7 800	7 800	7 800	7 800	7 800	7 800		0
12	Official travel	82 000	80 478	82 000	81 800	80 200	84 201	84 700	84 700	d	0
13	Communications	137 000	87 018	161 000	120 686	161 000	84 226	148 000	148 000		0
14	Supplies and materials	80 800	29 426	70 000	36 461	66 000	84 804	86 000	86 000		0
15	External printing and binding	40 000	37 226	46 000	44 484	80 800	48 841	84 800	84 800		0
16	Temporary assistance for meetings	149 800	148 788	307 000	302 267	129 081	117 837	129 100	129 100		0
17	Maintenance of premises (including Facility Management and contractual services)	140 000	110 086	126 000	120 132	380 000	287 831	526 000	699 300	e	173 300
18	Rental and maintenance of equipment	141 400	117 887	141 400	140 488	240 000	113 991	207 000	207 000		0
19	Hospitality	3 000	2 481	6 800	4 634	7 100	4 803	7 100	7 100		0
20	Special services (external audit)	3 000	16 000	13 000	13 000	16 400	13 000	16 400	17 700		2 300
21	Library - procurement of books and publications	80 000	88 753	80 000	88 834	80 000	80 984	80 000	78 000		16 000
22	Start-up costs of library	80 000	89 819	80 000	88 889	80 000	87 747	80 000	80 000		0
23	Miscellaneous services and charges (incl.bank charges)	8 000	12 080	80 000	31 787	28 000	19 208	28 000	28 000		0
24	Training					16 400	16 236	30 000	30 000		0
25	Security (contractual services)					137 136	23 313	180 000			-180 000
26											
27	Non-recurrent expenditure										
28											
29	Hospitality (premises related)					8 400	7 879	0	0		0
30	Furniture and equipment										
31	1. Purchase of equipment	80 000	86 804	125 000	124 488	230 000	187 788	248 000	310 000		62 000
32	2. Purchase of special equipment	80 000	80 718	26 000	19 881	17 000	13 987	27 000	30 800		3 800
33											
34	Contingency					879 384	469 870	883 800	894 388	f	38 488
35											
36	Working capital fund				200 000	80 000	250 000	80 000	80 000		0
37											
	Total	5 767 188	4 969 909	6 963 817	6 737 718	7 987 018	6 363 588	8 060 800	7 807 588		-253 488

[a] See annex V of SPLOS/WP.13.

[b] See annexes II and III.

[c] Common staff costs are computed at 33.4 per cent of established post costs (as per United Nations standard salary costs).

[d] Budget information system, inflation factors, version 07.

[e] Deutsche mark (DM) 222,000 for electricity; DM 79,000 for heating; DM 13,000 for water; DM 24,510 for insurance; DM 25,799 for maintenance of technical facilities (Finance Building Authority estimates); euro 50,000 for minor repairs at a maximum of euro 1,000 each (according to ceiling set in the Premises Agreement).

[f] Includes compensation to one ad hoc judge (including travel).

Annex II

Professional staff of the Registry of the Tribunal in 2002

Level	*Function*	*Number of posts*	*2002* *Standard costs (United States dollars)*	*2001* *Standard costs (United States dollars)*
ASG	Registrar	1	129 217	152 942
D-2	Deputy Registrar	1	126 038	143 021
P-5	Chief of Administration	1	100 139	108 857
P-5	Head of Conference and Linguistic Services	1	100 139	108 857
P-4	Librarian	1	93 313	105 019
P-4	Head of Budget and Finance	1	93 313	105 019
P-4	Translator/Reviser	1	93 313	105 019
P-4	Legal Officer	1	93 313	105 019
P-4	Legal Officer	1	93 313	105 019
P-3	Legal Officer/Information	1	76 951	75 910
P-3	Systems Administrator/Database Manager	1	76 951	75 910
P-3	**Translator/Reviser[a] [b]**	**1**	**41 150**	**40 550**
P-2	Contributions Officer/Budget	1	57 222	73 663
P-2	Associate Legal Officer/Research	1	57 222	73 663
P-2	Administrative Officer (Support/Building Management)	1	57 222	73 663
	Total	**15**	**1 288 800**	**1 452 100**

[a] New post.

[b] Budgeted at 50 per cent according to United Nations standard salary costs.

Annex III

General Service staff of the Registry of the Tribunal in 2002

Level	Function	Number of posts	2002 Standard costs (United States dollars)	2001 Standard costs (United States dollars)
Principal level				
	Administrative Assistant (Contributions and Accounts)	1	51 090	65 052
	Computer Systems Assistant	1	51 090	65 052
	Personal Assistant to the President	1	51 090	65 052
	Personal Assistant to the Registrar	1	51 090	65 052
	Administrative Assistant (General Administration)	1	51 090	65 052
	Administrative/Building Coordinator	1	51 090	65 052
Other levels				
	Personnel Assistant	1	39 488	51 386
	Finance Assistant (Accounts Payable/ Payroll)	1	39 488	51 386
	Senior Security Officer	1	39 488	51 386
	Information/Documentation Assistant	1	39 488	51 386
	Conference Service Assistant	1	39 488	51 386
	Secretary to Deputy Registrar	1	39 488	51 386
	Judiciary Support (Conference Typing Assistant)	2	78 975	102 773
	Pension/Tax/Social Security/Distribution Assistant	1	39 488	51 386
	Linguistic/Conference Secretary	2	78 975	102 773
	Security Officer/Driver	1	39 488	51 386
	Library/Documents Assistant	1	39 488	51 386
	Caretaker/Building Superintendent	1	39 488	51 386
	Receptionist	1	39 488	51 386
	Total	**21**	**898 900**	**1 161 100**

United Nations Convention on the Law of the Sea SPLOS/71

Meeting of States Parties

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Meeting of States Parties
Eleventh Meeting
New York, 14-18 May 2001

Decision of the Meeting of States Parties regarding the inclusion of a new rule 53 bis in the Rules of Procedure for Meetings of States Parties (SPLOS/2/Rev.3)

Rule 53 bis

Working group on financial and budgetary matters

Meetings of States Parties at which financial and budgetary matters will be discussed shall establish, as a matter of priority, an open-ended, working group which shall review the proposed budget of the International Tribunal and make recommendations to the Meeting. The working group shall be chaired by the President of the Meeting. Decisions on budgetary and financial matters shall be based upon the recommendations of the working group.

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Meeting of States Parties

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Decision regarding the date of commencement of the ten-year period for making submissions to the Commission on the Limits of the Continental Shelf set out in article 4 of Annex II to the United Nations Convention on the Law of the Sea

The States Parties to the United Nations Convention on the Law of the Sea,

Recalling the responsibility of all States Parties to fulfil in good faith the obligations assumed by them under the Convention,

Recalling also that the members of the Commission on the Limits of the Continental Shelf were elected in March 1997 and that the Commission commenced its work as from 16 June 1997,

Recalling further that the first task before the Commission was to complete its organizational work,

Noting that it was only after the adoption by the Commission of its Scientific and Technical Guidelines on 13 May 1999 that States had before them the basic documents concerning submissions in accordance with article 76, paragraph 8, of the Convention,

Considering the problems encountered by States Parties, in particular developing countries, including small island developing States, in complying with the time limit set out in article 4 of Annex II to the Convention,

Decides that:

(a) In the case of a State Party for which the Convention entered into force before 13 May 1999, it is understood that the ten-year time period referred to in article 4 of Annex II to the Convention shall be taken to have commenced on 13 May 1999;

(b) The general issue of the ability of States, particularly developing States, to fulfil the requirements of article 4 of Annex II to the Convention be kept under review.

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